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A
COLLECTION
OF

State Tracts,

Publish'd on Occasion of the
Late REVOLUTION in 1688.

And during the Reign of
King William III.

VOL. I.

To which is Prefix'd,

The HISTORY of the DUTCH WAR in 1672.

Translated from the *French Copy* printed at *Paris* in 1682.
which was suppress'd at the Instance of the *English* Ambassador,
because of the Discoveries it made of the League betwixt the
Kings of *France* and *England* for enslaving *Europe*, and intro-
ducing the *Popish* Religion into *These Kingdoms*, and the *United*
Provinces.

With a Table of the several Tracts in this Volume,
and an Alphabetical Index of Matters.

LONDON,
Printed in the Year M. DCC. V.

History

A
COLLECTION
OF

State Trials

Published on Occasion of the
Late REVOLUTION in 1688.
And during the Reign of

King William III.

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King of France and England for extirpating Rome, and for
changing the Popish Religion into the Kingdom, and the Roman
Catholic.

With a Table of the several Trials in this Volume,
and an Alphabetical Index of Names.

LONDON.
Printed in the Year M.DCC.V.

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THE PREFACE.

COLLECTIONS of this nature have been so much esteem'd by Persons of Learning and Curiosity, that no Man who makes any pretence to either, will have his Closet or Library unfurnish'd with them; especially if they are carefull, and judiciously put together, and in such order, as to give Light into the History of the Times. This is mention'd, not only to inform the Reader that all due care has been taken in this Volume, and will be in what is to follow, which is in great forwardness; but to observe, that the want of this Care is the reason why some Former Collections have not prov'd so useful, because the Pieces are put together without any connection, or so much as intimation when they were first publish'd, by which it often happens that the Force and Beauty of many a Passage, if not of a whole Tract, is intirely lost.

I shan't pretend to determine whether the two Volumes of those Tracts that had been publish'd in the Reigns of King Charles the Second, and James the Second, were defective this way or no: there were so many valuable Pieces in them, that they could not fail of being well receiv'd. But whoever casts his eye on the Table of the several Pieces contain'd in this Volume, will easily judge whether all needful care has not been taken as to that Point, and may discover at one view the Curiosity and Importance of the various Treatises here preserv'd, and the natural relation they chiefly have to one another. And to render the Work yet more useful, the Publishers have been at the charge of making short Contents or Notes in the Margin throughout the whole Work; and likewise of an Alphabetical Table: both which are necessary to almost all sorts of Books, tho too much neglected. But to give a short Account of some of the Tracts in this Volume (for it would be too tedious to go thro the whole.)

The History of the Dutch War in 1672. which is the first in this Collection, was printed at Paris in 1682. with the French King's Permission; but at the Complaint of the Lord Preston, then Ambassador from King Charles the Second, it was soon suppress'd, and the Author sent to the Bastile, altho he had advanc'd nothing but what he had good Vouchers for from the Secretaries of State, &c. There were not above four or five Copies of either the Italian or French Editions, that escap'd being seiz'd; which has so rais'd the Curiosity of the Ingenious, that twenty Pistoles have been offer'd for one Book. This History, with two other Tracts immediately following, are a natural Introduction to this whole Work, by reason of the Discoveries therein made of the Secret League between the Kings of France and England for subverting the Civil Liberties of Europe, and for introducing Popery into these Kingdoms and the United Provinces; and also because the Effects of that League occasion'd the late Revolution in 1688.

The PREFACE.

The first Tract in the Body of the Collection, is a Memorial from the Protestants of England to the Prince and Princess of Orange, in relation to the Grievances of the Nation, and the Birth of the pretended Prince of Wales. This and several other Pieces in this Work, as they will be always of use, so especially are they at this time, to refresh the Memories of too many even of Those who had help'd forward the Revolution, but have since given evident Signs of their Repentance for the share they had therein, by endeavouring to sow the Seeds of Discord and Faction, not only in the late but present Reign, by acting counter to many wholesom Advices from the Throne, and thereby endeavouring to enervate the Force of the Acts for securing the Succession in the Protestant Line, in order to make way for the St. Germans Pretender.

The History of the Desertion, which comes next, is valuable for the exact Account it gives of one of the greatest Revolutions, consider'd in all its Circumstances, that has hapned these hundred Years, for the Original Papers exhibited therein pro and con, and for other material things too long to be mention'd here. This is follow'd by the Reflections on King James's Reasons for withdrawing himself from Rochester, which sets the Matters of Fact on that Head in a clear Light.

The Reader will here find many excellent Discourses in defence of the Revolution, of the Title of King William and Queen Mary to the Crown, and of the Oaths injoin'd by Act of Parliament to be taken to Them, with an Answer to all the Objections rais'd thereunto. And if in such a Variety of Tracts the same Arguments are handled by several Authors, tho this could not be well avoided, yet the different Turns given to 'em will make them relish with a judicious Reader.

Of the many Pamphlets contain'd in this Volume I shall take notice but of one more, to wit, The Reflections on the Opinions of some Modern Divines, written by an eminent Clergyman of the Church of England; and that for the sake of the Articles on which the Magna Charta of King John was fram'd, and likewise the Magna Charta it self, which are both printed in the Appendix to the said Book, and which for the Authentickness of 'em (as being the most perfect Copies ever extant) deserve to be perus'd by all that would truly understand the Old English Constitution. I shan't anticipate the Reader, but refer him for satisfaction to the Advertisement prefix'd to 'em, in Page 519. of this Volume.

'Tis an antient and true Observation, That the Government of this Kingdom is one of the best in the Universe: The Prince is so limited, that he has Power to defend, but not to invade the Property of the Subject; and the Obedience of the Subject is made absolutely necessary to the Support of the Crown in a legal Administration, but can't be demanded for the maintenance of arbitrary Power: and when either of them pass this Ne plus ultra, they involve themselves in unavoidable Danger. How far the late Revolution occasion'd the restoring and settling of This Excellent Constitution, will be easily perceiv'd by perusing the following Collection: A Revolution that should be gratefully remember'd, were it only that thereby was secur'd to her present Majesty Queen ANNE the quiet Possession of the Crown of these Realms, notwithstanding the Endeavors of her Enemies to set her aside by a supposititious Prince.

June 1. 1705.

The Titles of the several Tracts contain'd in the First Volume.

In the INTRODUCTION.

THE History of the War of Holland; written originally in Italian by the Count De Mayole, and printed at Paris 1682. with the French King's Privilege; but soon after suppress'd, almost all the Copys destroy'd, and the Author sent to the Bastile, at the Complaint of my Lord Preston the English Ambassador then residing at Paris. Never before publish'd in English. Page 1.

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The History of the War of *Holland*:

Written originally in *Italian* by the Count *de Maiole*,

And printed at *Paris*, Anno 1682. with the French King's Privilege.

But soon afterwards suppress'd, almost all the Copies seiz'd and destroy'd, and the Author sent to the *Bastile*, upon the complaint of the *English* Ambassador then residing at *Paris*, because of the Discoveries it made of all the private Transactions and Managements betwixt the Court of *England* and that of *France*, about entering into that War, and for carrying it on.

Never before publish'd, and now faithfully translated into *English* from one of the Original Copies.

The P R E F A C E.

TO write a History is the most difficult Task in the World. In such Performances we look for Truth; and that is not easy to be found among Men, the greatest part of whom are either downright Liars, or sway'd by Passion and Interest. Commonly Authors write either for Reputation or Interest; some write to please, and others to gratify Revenge; and 'tis by these different Views that History is chang'd into Encomium, Satyr, or Romance. But after all it must be own'd, that those who mean to write Truth, meet with great difficulty in compassing their End. Things appear to them otherwise than they are in themselves, either thro Ignorance, or thro a particular way of Conception; both in the case of their being Eye-witnesses, and in that of taking things upon the Information of others. If when a Quarrel happens between two private Men, each of the Spectators gives a different Relation of the Particulars; How much more different must our Accounts be of the Events of War, in which every one blindly follows his own Side or Party, and of those of Cabinet Intrigues, which are carefully conceal'd by the small number that are let into the Secret?

For my own share, I have always pursued the Truth like a disinterested Judg; I have examin'd the Writings of both Parties, and have related such things as all the World seem to agree in. And in regard that the meanest Officers set up for Generals, that a young Blunderbuss pretends to be a Man of Capacity, and that the wretched Newsmongers take upon 'em to be Ministers of State, I have endeavour'd with the utmost application to learn the Genius and Capacity of those with whom I have convers'd, and have taken nothing upon their Credit but what pass'd thro their hands. I have likewise observ'd that several Ministers, presuming upon their being employ'd in a particular Affair, would have the World believe that they were let into the Secret of general Affairs; which was so far from being true, that oftentimes they neither knew what they were about, nor what they had actually done, whether it be that this proceeded from Ignorance and Weakness, or from their being employ'd only as simple Couriers, tho invest'd with the quality of Envoys or Ambassadors.

I have met with Men of Sincerity, whom I have known to be such by the Testimony of their very Enemies; and those are always the Persons of greatest Merit who hate Dissimulation most: but I have likewise met with several, that to excuse their Faults gave me long Ratiocinations preposterously brought in, and in spite of their teeth gave me a glimpse of the perplexity and uncertainty they were in during the Action, the principal Circumstances of which they pretended to conceal from me. I gain'd my Point pretty handsomly with these Men, by relating the Rumours spread to their disadvantage; which had a wonderful Effect, and oblig'd those of 'em that had most vanity, to endeavour to persuade me by pointing to the most secret Originals. And so as things came to pass, I always kept a Journal of 'em, in which I inserted at large the Discourses of the principal Officers and Ministers, and

from thence drew afterwards an *Extract*, which I shew'd to the most knowing and most disinterested Persons.

I hope 'twill not be thought strange if I say that I have corresponded with almost all that are nam'd in this *History*, either by Letters or *viva voce*, or by the intervention of Friends, to try whether they said the same to them that they did to me. My Travels and Fortune have given me an opportunity of being acquainted in a manner against my will with several Persons that otherwise I never had known, had my own Choice and Will been the Standard of my Conduct.

I have not neglected to hear the most passionate Men, and even the common sort of People, as having discover'd that among an infinite number of false Reasonings, we may sometimes meet with very good Arguments.

It remains now to inquire, whether I can expect to succeed in a *History* of the Times we live in, which is a much more difficult Task than the *History* of past Ages; upon the account that all living Men are so many Witnesses, who have right to speak, and oftentimes condemn without reason the *History* that has left them out, or mention'd them to their disadvantage: which does not happen in the case of antient *Histories*, tho even these can't scape the lash of Censors.

'Tis certain that those are grossly mistaken who are of the opinion, that a Man ought never to write the *History* of his own Time. That Thought takes rise from the Weakness of the Authors, who are afraid of disobliging some body, or from their Ignorance, which they mean to conceal; for if they were sure of what they write, they would make no scruple to publish it. They may amuse themselves with crying in a Preface, that neither Interest nor Fear can have any effect upon them: 'Tis true indeed, the remoteness of the Time, and the death of those of whom they write, may put them in a condition to write without passion; but 'tis impossible they should have good Memorials of things at such a distance, and in writing upon the relations of others without being able ever to verify them, and in representing things according to their Caprice, under the pretence of having taken 'em from the Cabinet of the Dead: 'tis impossible, I say, in this case, but they must write Comedies instead of *Histories*. Such faults as these can't be charg'd upon the *History* of ones own Time; here an Author can invent nothing without being charg'd with it; all he stands in need of is the Prudence and Discretion of avoiding, either reflecting or flattering Terms: and above all he ought to remember, that in setting forth things just as they came to pass, it behoves him to leave the Reader to judg of the Actions that are praise or blame-worthy.

It must be apprehended that this way of writing is possible, there are Means in a manner certain for compassing the most difficult things: But tho Calumny and Detraction is sometimes receiv'd among Persons of the greatest Honour better than Truth, and by these false means Authors have study'd to please rather than instruct, we must heedfully take care not to follow such a pernicious Example; it being infinitely better to imitate Julius Cæsar, who in his Commentaries has shewn without affectation that his Pen was as good as his Sword.

All these Considerations are not sufficient for a *History*. In order to write a *History*, a Man ought to have a natural and singular Genius for it; he ought to be of a Country that has no difference with those of whom the *History* is writ; he ought to be particularly acquainted with People of all sorts of Nations, Qualities and Humors; he ought to be inur'd to Affairs, which he can never acquire without long Travels, in which he must spend high, and that with courage, address, and a happy carriage, in order to introduce himself, to please, and to enter into Conversation with the better sort of People. This I speak by experience, and I am of the Opinion of several great Men who can't conceive how a Man can write a *History* that never stir'd out of his own Country.

But after all 'tis very possible, that notwithstanding all my Precaution I may have committed Faults, but 'tis not thro negligence. I have commenc'd a Suit, if I may so speak, against all Europe in order to find out the Truth, and have oftentimes chose rather to be silent, than to advance dubious things. The World will see that I speak the Truth when I come to print the Collection of all the Originals from which my *History* is taken. I hope likewise to publish a Journal of some very particular and private Things, in which I shall insert the Names, and the Manners or Qualities of all those whom I have found Honourable, Modest and Sincere: and perhaps the World will there meet likewise with some foolish People.

THE HISTORY OF THE Dutch War.

IF ever the Events of a War deserv'd to be transmitted to Posterity, it must certainly be those of the last War with *Holland*. In that Juncture we saw all *Europe* in Arms; the Match was then more equal than in the Case of barbarous Nations conquer'd by more warlike and disciplin'd Powers: 'Twas then that the most warlike, the most civiliz'd, and the wisest Nations upon the Earth, who equal'd one another both in Power and Conduct, shew'd to the World by a seven years course of Sieges, Skirmishes, and Battels, what Feats the Power, the Fortune, the Valour, and the Prudence of mortal Men can reach.

As for my self; being oblig'd by some particular Concerns to cross the *Alps*, and wander up and down among the principal Courts of *Europe* till the Peace of *Nimeguen*; I had the happy opportunity of being familiarly acquainted with the Persons that were best vers'd in the Affairs of *Europe*, and those who made the most considerable Figure in the Field. By this means I came to be inform'd of things just as they came to pass, and upon that consideration I should charge my self with a Failure in the discharge of my Duty to the Age I live in, if I did not impart to 'em all that I know. But in regard the Commotions and Revolutions that have happen'd within these few Years in the Empire, and in several other Kingdoms and States in Christendom, took their rise from remoter Sources; to avoid Confusion, 'twill be necessary to look a little farther back, and discover the Springs of so many grand Events.

The Author's Inducement to write.

As soon as the *Pyrenean* Treaty of Peace was concluded between *France* and *Spain*, the two Kings, and all the Princes and Republicks that had imbarck'd in the Interests either of the one or of the other, apply'd themselves to the pursuit of the surest and most solid Means, not only of rendring that a lasting Peace, but likewise of accommodating all the Differences that might lie between other Princes, and in process of time might disturb the Repose of *Europe*.

The state of Europe in 1660.

Pope Alexander VII. fed the *Venetians* with hopes that the Christian Princes would with joint Forces defend the Kingdom of *Candia*, and check the Pride of the *Ottoman* Court.

The Pope.

Leopold of *Austria* being lately chosen Emperor, made the necessary Preparations for the Defence of *Hungary* that was then invaded by the *Turks*; and by the steadiness and prudence of his Councils, as well as the force of his Arms, shew'd himself worthy of the Dignity he had lately receiv'd.

The Emperor.

Philp IV. King of *Spain*, who then bended beneath the weight of old Age, and a languishing state of Health, rejoic'd to see his States in *Italy* and *Flanders* entering upon the enjoyment of the Fruits of Peace; and now his only Care was to make an Accommodation with the *Portuguese*, and so give Peace and Repose both to *Spain* and himself.

King of Spain.

Charles II. King of *Great Britain*, miraculously recall'd after a long Exile to the Crown of his Ancestors, bended his Thoughts upon settling and securing his Throne, that still totter'd by the Influence of the last Revolutions.

King of England.

Duke of
Savoy.

The Nor-
thern
Kings.

Republics.

The K. of
France.

1661.

Charles Emanuel II. Duke of *Savoy*, was then retrieving by degrees the Plenty and Prosperity of his Country, that had been so long the Seat of War.

The Northern Kings gave sufficient proof of their Inclination to Peace as well as the rest; and the *Swedes*, who had several Contests with the *Muscovites*, the *Danes*, the *Germans* and the *Poles*, either adjusted them in an amicable way, or accepted of the Mediation of other Princes.

The Republics study'd nothing but the Enlargement and Security of their Commerce.

But among all the Sovereigns, whose only view was to make their People happy in the enjoyment of Peace, *Lewis XIV.* King of *France*, drew the Eyes of the Universe upon him by his distinguishing Conduct.

In 1661. this Prince, who was then twenty three years of Age, and bereft of the Counsels of Cardinal *Mazarine* his first Minister that died but just before, apply'd himself out of hand with diligence and pleasure to the Government of his Country: and calling to mind the Civil Wars that happen'd during his Minority, omitted nothing that cou'd insure the future Tranquillity of his Kingdom. He began with an equal and impartial distribution of Justice both to the great and the small; the one he kept from riding at the head of Parties, and the other he oblig'd to a regular and orderly form of Life: He confirm'd and put in severe execution all the Edicts against Duels; he limited the time of Governors Places, and suppress'd such Offices and Posts as were too great either in Power or Profit, as being dangerous and capable of keeping up private Clubs and Cabals. In fine, he order'd every thing to be brought before himself, and suffer'd nothing to be transacted without his Knowledge and Consent; 'twas he alone that heard Petitions of the aggriev'd, and none but he cou'd grant their Requests.

By pursuing these Maxims, he rais'd the Royal Power to that height, and made his Subjects so submissive and obedient to his Orders, that not any of his Predecessors, nor indeed any Prince in *Europe* ever reign'd with so much Authority. Being prepossess'd with the Opinion, that the only Glory of a Prince consists in advancing the Felicity of his People, he bent all his Force upon that Design, by issuing forth new Orders for redressing Abuses, by fortifying his Places of strength, and imbellishing his Cities, by cutting a Canal to join the two Seas, by countenancing the *India* Companies, with intent that his Subjects might gain from the Riches of all the Earth by the means of Commerce. He knew very well that the *French* Nation is naturally inclin'd to Arms, and accordingly endeavour'd to keep up and feed that Ardour in the numerous Troops he had on foot; he train'd them up to the Discipline of War in the midst of Peace, and kept them always in Exercise, either in succouring the Christians against the Infidels, or in assisting his Allies. With this view he order'd, or suffer'd his Troops to make several Expeditions against the *Moors* to *Gigery*, *Tunis* and *Algiers*, and against the *Turks* to *Hungary* and *Candia*; and forasmuch as he was oblig'd to protect the *Dutch*, so long as they continu'd his Allies, his Forces march'd towards the *Rhine* against the Bishop of *Munster*, and made head against *England* in the Ocean.

The most important Secret that this Prince made use of to render himself absolute, puissant and formidable both at home and abroad, was the regulating of his Revenues, and committing the management of 'em to such Persons as he knew to be Men of Probity and Capacity. The politick Foreigners who knew that *France* was capable of undertaking and effecting any thing if it was once appriz'd of its own strength; these thinking Heads trembl'd, when they saw that the King himself inspected the reestablishment of his Finances; and did not question but that one day this young and brave Prince, inspir'd with the desire of Glory, wou'd have a sufficient provision both of Men and Treasure to put the greatest Projects in execution. They saw with astonishment, that in so narrow a compass of time he had done among his own People, what his Predecessors cou'd not compass in so many Ages; and foresaw with regret that such an absolute Government would infallibly be follow'd with Glory and Puissance. Such were the Thoughts of the Politicians; and indeed the People themselves and all that saw this Prince, expected nothing less than Prodigies from him. The Ambassadors and Ministers of Foreign Princes, and even the private Foreigners that only travel'd thro *France*, could not behold him without admiration, and envying the *French*. They acknowledg'd that as he surpass'd other Men in a majestick Stature, and such as was worthy of a Sovereign Power, and in a Presence that gain'd the Hearts of Mankind at first sight; so he went as far beyond other Kings in a good Government, in exact Justice, in a particular

ticular regard to the Interest of his private Subjects, in a superiority of Genius, in a mild Temper, and in all other Virtues.

So many great Qualities shining in such a potent King, were quickly known all over the World; and occasion'd the Impressions of Love, of Fear, and of Esteem, in the Hearts of his own Subjects, of his Neighbours, and of distant Nations.

The *Suissers*, the *Dutch*, the *English*, the *Portuguese*, and *Charles Duke of Lorrain*, enter'd into new Leagues with him, or renew'd the former Treaties. The King of *Spain* and the Pope gave him Satisfaction as to what happen'd to his Ambassadors at *London* and *Rome*. The Emperor, the *Venetians*, the Grand Seignior, the Czar of *Muscovy*, and even a King of *Guinea*, sent him Ambassadors, either to desire his Aid against their Enemies, or to negotiate Alliances with him, or else to try if Fame was just in proclaiming that the Wisdom of this young Monarch was yet greater than his Power.

But what rais'd his Reputation farther, he had scarce appear'd in Arms when he forc'd the *English* to conclude the Peace of *Breda*; and finding that he could not oblige *Spain* to the cession of the Countries, which, as he pretended, did lawfully belong to his Queen after the death of *Philip IV.* he conquer'd one part of *Flanders* in one Campaign; took possession of *Franche Comte* in Winter in the space of ten days; and in fine, oblig'd the *Spaniards* to quit by the Treaty of *Aix la chapelle*, their Pretensions to all the Places he had taken in the *Netherlands*. 1664.
1667.
1668.

Upon the appearance of so great Power in the hands of so wise a Prince, all the Potentates of *Europe* discover'd their Jealousy or their Fears: *Anna Maria* of *Austria*, Mother and Guardian to *Charles II.* King of *Spain*, being sensible of her own Weakness, and considering the Infancy of her Son, imploy'd the ablest Ministers of *Spain* to negotiate a Treaty with the *English*, the *Swedes*, and the *Dutch*, for the security of the Peace, and the reciprocal defence of their Countries. The *English* and the *Swedes* listen'd to the Proposals that were made upon that Head; and the *Dutch* with a distinguishing Importunity, sollicit'd all the Powers of *Europe* to enter into the League, which they call'd the *Triple Alliance*. The Queen of Spain.
The Triple Alliance
1668.
Jan. 27.

But considering that the *Dutch* had always sided with *France*, to whom they ow'd the Settlement of their Republick, the World was at a loss to conceive the Motives and Reasons that oblig'd them to take Measures so contrary to their antient Alliances. Reflections upon the Conduct of the Dutch.

About the middle of the last Century this People, fond of a new Doctrine, assembled at first in small Companies; and afterwards finding themselves back'd and supported by some great Lords of the *Netherlands* that were Malecontents and dissatisfy'd with the Government of *Spain*, they entred by degrees into the most considerable Cities, and made themselves Masters of the whole *Seven Provinces*, revolting at once both from the Church of *Rome* and King *Philip II.* *Spain* imploy'd its best Troops and its greatest Treasure in reducing them; and in pursuit of this End dispeopled it self, and drain'd all the Mony both of the *Indies* and its Dominions in *Italy*: But after a memorable War that lasted eighty Years, the *Spaniards* considering that the Rebels were still succour'd by *France*, were forc'd to clap up a Peace in 1648, and own them a *Sovereign Republick*. The first Rise of their Republick.

This News struck all the Princes of *Europe* with Amazement; the very *Turks* were surpriz'd at it, and the Grand Vizier viewing upon a Map the wide Extent of the Monarchy of *Spain*, and the small spot of Ground possess'd by the *Dutch*, cry'd out, That such great Armies were not necessary to conquer 'em, for that they needed only *Pioneers* to throw 'em into the Sea.

In the mean time, being an active and industrious People, they had taken care of their Commerce in the midst of War; they had erected Companies that traded to the *Indies*: their Ships scour'd all over the Seas, and imported Commodities from all the Parts of *Africa*, *Asia*, and *America*; and the City of *Amsterdam* was in a few Years become the Magazine of *Europe*, and the richest City in the Universe.

'Tis true, Fortune favour'd their Projects; but still it must be own'd that Industry and Parsimony contributed very much to enrich 'em. By lessening their Cost in retrenching the Allowance for Food, and the Number of their Seamen, and selling their Commodities at lower Rates than other Nations, they ingross'd in a manner all the Commerce of the World, and made themselves Masters of the Sea.

Those who in the beginning of the Revolt were call'd *Beggars*, became very rich in a little time; and their Traffick giving them access to barbarous and savage Nations,

tions, they did not slip the opportunity of subduing them, either by the awe of their Arms, or the hopes of Profit. They made themselves Masters of several Islands, and divers Kingdoms in different parts of the World, and enlarg'd the number of their Ships in proportion to the accession of new Conquests, Riches and Power.

By this means they quickly came to be Masters of above twelve thousand Ships; they sent Ministers of State, Consuls and Agents to *China*, *Siam* and *Bengal*, to the Great *Mogul*, to the King of *Persia*, to the Princes of *Africa*, to all the Places in the *Levant*, to the *Port*, to *Muscovy*, and even to *Tartary*: And in all these Countries they were look'd upon as the most potent People of *Europe*, and the Sovereign Lords of the Sea.

Thus it was that the Republick of *Holland* did more in forty Years than the Commonwealth of *Rome* was able to accomplish in four Ages: for in that narrow compass of Time they visited all the Seas that are sail'd under the Poles, and penetrated to the ends of the Earth; whereas the *Romans* after three hundred Years standing cou'd scarce boast of having seen the *Alps*, and view'd the Shoar of the *Mediterranean* Sea.

The Projects of the Dutch. So great a Train of Prosperity puff'd up the *Dutch*. The Peace with *Spain* was their security by Land, and they thought they had sufficiently signaliz'd their Power at Sea by the two Wars they had maintain'd against *England*. The Glory of having made Head against two powerful Kings, quickly inspir'd 'em with the thoughts of enlarging their Grandeur. They excited all their Neighbours to assert an independent Liberty, and unite with them; to the end that by thus undermining and infeebling Monarchical Governments, they might either force the Kings to be tributary to them, or establish a Republican Government in their Dominions.

In pursuance of this mighty Project, they actually began in 1658, to send Manifesto's privately to all the great Cities of the *Spanish Netherlands*; and in these Manifesto's personated the *Flemings*, proposing Liberty as the greatest of all Injoyments. By this means they made account to reunite all the *Netherlands* under a Form of Government like to that of the *Swiss-Cantons*, which might consist with the diversity of Religion.

They begin to be alarm'd at the Conquests of the King of France. Full of these mighty Thoughts, they reckon'd themselves sure of the Empire of the *Seventeen Provinces*, and wou'd not give ear to the Proposal made to 'em by *France*, before the *Pyrenean* Treaty, of invading *Flanders*, and dividing the Country with them. They imploy'd only a few Troops against the Bishop of *Munster* in 1669, because they were loth to provoke *Germany* to imbarck in the War, and had a mind to have an Army always in readiness to support the Reunion of the *Netherlands*, which they took to be just at hand. Tho their Project was thwarted by the most Christian King his marching into the *Spanish Provinces*, yet they still pursu'd the Design: And when they saw so many Towns taken by the *French* at so easy a Rate, they began to levy Troops, and made a Promise to the *Spaniards* of obliging *France* to make Peace, either by Sollicitations or by Threats.

The most Christian King having at that time sign'd the Peace of *Aix la Chapelle* upon the Request of Pope *Clement IX.* and thro the Mediation of the King of *England*; they took occasion to boast that this Peace was brought about by their Intrigues and Threats: and having the haughtiness to reckon themselves the Arbiters of the greatest Kings of *Europe*, they flatter'd themselves with the hopes of being one day so powerful as to give Laws to all the Earth.

They attempt to over-reach both the French and the Spaniards. But perceiving that the Power of his most Christian Majesty broke all their Measures, they endeavour'd more than ever to form the Triple Alliance, as being the only means to put a stop to his Conquests. Besides, they hop'd by this means to render themselves more considerable in the Eyes of *Spain*, to whom they were not yet well reconcil'd, to conceal in the mean time their Design upon the *Spanish Netherlands*, to screen them from the Invasion of the *French*, and after that to turn out the *Spaniards*, and so dispose every thing for the execution of their Designs.

The King of France complains of the Dutch. This whole Plot was seen thro by several Princes, who being either in no condition to oppose the *Dutch*, or not so nearly concern'd in the Matter as *France*, contented themselves with only observing it, and waiting the Event. But his most Christian Majesty thought he had reason to be reveng'd on a Nation, that instead of acknowledging the Obligations they lay under to the Kings his Predecessors, and a grateful remembrance of the Succours sent 'em so often by himself, made it their business

business to enter into Leagues against him, and spoke of *France* with too much Freedom: Tho after all he had still some Scruple upon the matter, and was unwilling to declare War against them without being downright forc'd to it. He knew that *Vanbuningue* the *Dutch* Ambassador proclaim'd every where that he had put a stop to the Expedition to *Flanders* in 1668. that the Peace of *Aix la chapelle* was owing to him, and that one Letter from the States-General had influence enough to check and moderate the *French* Career. At the same time he knew that the *Dutch* had taken the same Liberty in causing a Device to be made, representing the Sun stopt by *Joshua*, importing that *Vanbuningue*, whose Christen'd name was *Joshua*, had forc'd the King of *France*, who has the Sun for his Motto, to stop in the midst of his Career. He was not ignorant that they had struck several Medals, in which they ascrib'd to themselves the Glory of having made the Peace of *Aix la chapelle*; and so not only insinuated that the King of *France* had not complied if he had not been forced to it, but likewise were unjust to the *Pope* who had solicited that Peace with so much Importunity, and to the King of *England* by whose mediation it was concluded. In fine, he receiv'd information from all quarters that they made it their constant business to ruin his new *Indian* Companies, and the Manufactures of *France*; and without any regard to the due Observation of Measures, spoke ill both of his Government and of his Person. The States-General having suffer'd their Gazetteer, speaking of the attack of Fort St. *Sebastian*, to say that certainly the King would take it; this Prince took occasion from thence to tell *Vanbuningue* that he would find ways and means to bring the *Dutch* to reason both by Sea and Land. Upon this the Ambassador, proud of the great number of Ships that his Republick had in all the parts of the World, reply'd with a bantering Air, *What, by Sea, Sir!* These Considerations induc'd the King to resolve upon a War; and accordingly he set about the necessary Preparations for undertaking it with Security.

Vanbuningue's haughty carriage.

The *Dutch* were quickly aware of his designs, but were not at all alarm'd or frightn'd: Having maintain'd a War so long against *Spain*, and against *England*, they reckon'd that *France* lying at a greater distance, would find more difficulty in attacking them; and relying upon the Triple Alliance, they could not imagine how *France* should reach them without mastering the two great States and Barriers that cover'd them; the one by Sea, and the other by Land.

The Dutch are not afraid of France.

The People of *Amsterdam* made the greatest figure among the *Dutch*, and push'd on the interest of their Republick with a higher Hand than any of the rest. The immense Sums they had advanc'd to answer the necessities of the State, the Authority that accru'd to them at Sea by virtue of the *Indian* Companies, the Obligations they had laid upon all the seven Provinces, in defending them against the Princes of *Orange*, and particularly *William II.* when he attempted to invest himself with a Sovereign Authority; all these particulars rendring them more considerable than any of the rest, they were oblig'd to join their own Interest with that of the State, and incessantly pursue the Preservation of Liberty: for which end they join'd with some other Cities, and form'd a Party that was call'd by some the *Republican*, and by others the *Louvestin Faction*, as consisting of the Relations and Friends of those whom the late Prince of *Orange* had imprison'd in the Castle of *Louvestin*.

The Power of Amsterdam.

The Origin of the Louvestin Faction, call'd afterwards the de Witts Faction.

Cornelius de Wit, and *John* his Brother stood in the first Rank of those who espous'd the Republican Cause. They were the Sons of *James de Witt* Burgomaster of *Dort*, whom the late Prince of *Orange* had imprison'd among the rest in the Castle of *Louvestin*. *Cornelius* then Burgomaster of *Dort*, and *John* Pensionary of *Holland*, had appear'd so warmly in the Interest of their Country, by opposing the Grandeur of the House of *Orange*, and sinking by a perpetual Edict the place of Stadtholder; they had given proof of so great Capacity, both in War and Foreign Negotiations, particularly the Mediation between the two Northern Crowns, and the Peace of *Breda*; that they had gain'd the Affection and Trust of the People, and having strengthen'd their Interest by Alliances of Marriage into the principal Cities, they govern'd the State with an almost absolute Sway; the military Province being managed by *Cornelius*, and that of Civil Negotiations by *John*.

By virtue of this Conduct the two *de Witts* had the absolute disposal of every thing; they form'd all the Projects I spoke of but now; they solicited the Conclusion of the Triple Alliance, rais'd Troops, and had nothing in view but the Safety and Honour of the Republick; upon which Consideration some gave the

The de Witt Party.

Their
thoughts
upon Com-
merce.

the *Louvestin* Faction the name of the *de Witt Party*. 'Tis said that by continual Application in the way of publick business they penetrated so deep into the Affairs of *Europe*, that they not only knew the Force and Riches of the neighbouring Princes, but could even adjust the quantity of Money and Commodities that pass'd every Year from one Kingdom to another. They computed that six Millions were exported out of *France* every Year, and that thirty six were carried into it merely upon the score of their new Fashions and Manufactures; and upon the Plea that the Subjects of *Holland* did by their cunning and dexterity in the way of Trade, contribute more to this Import than any other Nation, they alledg'd that *France* ought never to fall out with the Republick for fear of sustaining so great a Loss.

Vanbunin-
gue his me-
naces.

Vanbuningue protested openly that if his most Christian Majesty made War with the States-General, they would unite all the Powers of *Europe* against him, and intirely ruin the Commerce of his Kingdom. This Ambassador was so dissatisfy'd with the Rumors of the War with which his Country was threaten'd, that at the end of his Embassy he would not buy any of those Stuffs, and other Manufactures that are made in *France* with so much Ingenuity, and sought after by Foreigners with so much Labour and Charge. He asserted in all Companies, that the only means to prevent *France* from enriching it self upon the Spoils of other Nations, was to have the Manufactures of *France* prohibited by all the Princes of *Europe*, and to endeavor by all means whatsoever to ruin the Subjects of a Prince that was already too powerful and formidable by himself.

The In-
trigues of
the Dutch
in Germa-
ny.

In fine, the *Dutch* were so confident that *France* could not wage War with them, that they thought neither of Expedients to avoid it, nor of Means to carry it on. Besides, they were sensible that in this juncture *Flanders* was safe; and so that they might not be idle or useless, officiously offer'd their Mediation to all the Princes then in War, and pretended to negotiate Peace between the *Muscovites* and the *Swedes*, between *England* and the *Hanse Towns*, between the Bishop of *Munster* and the Duke of *Brunswick Wolfenbuttel*, between the Elector *Palatine* and the Duke of *Lorraine*. At the same time they entred into Treaties of Alliance with *Frankfort*, *Strasburg*, *Aix la chapelle*, and some other Towns in *Germany*; and protected such as were at variance with their Sovereigns, particularly the City of *Cologne*: for their only view was to gain Authority in the Empire, and make themselves the Arbiters of the North, there being nothing to be done on the South side, and it being then an unfavourable juncture for the displaying of their designs upon the *Netherlands*. They imagin'd further that by the Triple Alliance they had ingaged the Imperial Court in their Interest; by which means they hop'd to lull the greatest Princes of the Empire asleep, and to bring over to their Party the most considerable Kings of *Europe*.

The Bishop
of Munster
discovers
their pro-
jects.

But *Christopher Bernard de Gaalen* Bishop of *Munster*, quickly saw thro their Designs, and imploy'd the proper means to render them abortive. Being their near Neighbor, he narrowly observ'd all their Proceedings; and saw that under the pretence of Mediation, Justice or Protection, they made several Usurpations over the Counts of *Stirum*, *Liechtenstein*, *Culenbourg*, *Bentheim*, and *East-frise*; that they disputed the Precedency with the Duke of *Neuburg's* Ministers, and threatned to seize upon *Juliers*; that they had already seiz'd upon *Ravestein*, and kept possession of *Rhinberg*. In fine, he quickly perceiv'd that by fomenting the revolt of his Subjects, and pretending to force him to disband his Troops, they meant to spread their Authority by degrees upon the Ruins of their Neighbours, especially those of the Ecclesiastical Class, who being only Princes for Life are always less powerful than hereditary Princes.

He did not think himself oblig'd to disband his Troops, tho'twas true he might have no occasion for them now that he had made Peace with the Duke of *Brunswick Wolfenbuttel*. Being sensible that he lay nearest in the way of danger, he had a mind to keep his Troops standing, and caus'd Proclamation to be made in the Empire that the Designs of the *Dutch* had a barefac'd tendency to the destruction of Monarchical States. He made a proposal to *Gaumont* Gentleman in ordinary to the King of *France*, of entring into a Treaty with *France*, and press'd the Elector of *Cologne*, and the Duke of *Neuburg* to confederate with him. Without farther delay he gave the *Dutch* to know that it behov'd them to withdraw their Garison from *Cologne*, or else he would be oblig'd to procure the Evacuation of that place by Force; in which service he was ready to imploy his own Troops in conjunction with those of *Cologne*, and of some other Princes, who only wanted an opportunity of making reprisals upon the *Dutch*. These

These Threats made no Impression upon the *Dutch*; they still continued their wanted Course, notwithstanding that the Emperor had at the same time taken *Cologne* into his Protection, and given the States-General to understand (by Mr. *Campvir* and the Baron *d' Isola* his Residents at the *Hague*) that they ought to give up *Rhinberg* to the Elector of *Cologne*, and give Satisfaction to the other Princes of *Germany* that complain'd of their Incroachments.

This done, the Elector of *Bavaria* advis'd the Elector of *Cologne* his Cousin to join with the Bishop of *Munster* and the Duke of *Newburg*, and make a League with his most Christian Majesty, who appear'd to be sufficiently provok'd by the *Dutch* upon other accounts. The Bishop of *Strasburg*, and Prince *William* of *Furstemberg* his Brother were of the same mind; and openly declar'd that this was a favourable opportunity of humbling the pride of that Republick, and of readily obtaining what the Emperor and the Empire had demanded of 'em in vain for so many Years.

The King of *France* continuing to make the necessary preparations for a War with *Holland*, concluded a Treaty with these *German* Princes, who were the only Persons that could open to him the Gates of *Holland* upon the *Maese* and the *Rhine*, and give him the opportunity of attacking the *Dutch* by Land, a thing that they thought impossible, and were not in the least aware of. But lest the Emperor should entertain some jealousy upon the account of this League between *France* and these Princes of the Empire, and reckon himself oblig'd to succour the *Dutch*; the King of *France* charged the Princes of *Furstemberg*, and *Commandeur de Gremonville* his Minister at *Vienna*, to omit nothing to keep the Imperial Court Neutral.

The Prin-
ces of Fur-
stemberg
in the
French
Interest.

'Twas well known that the Emperor look'd upon the *Dutch* as rebellious Subjects, that had revolted from the Princes of his Family; and that he had particular reasons besides to be dissatisfy'd with their Conduct, for in effect they aspir'd after new Titles, and made Attempts and Incroachments upon the Princes of the Empire every day. But the Emperor having enter'd into the first Negotiations of the Triple Alliance, 'twas to be fear'd he might still continue in the same Sentiments out of regard to *Spain*: And upon this Consideration the Princes of *Furstemberg* made a dexterous Representation of Affairs to his Imperial Majesty, by the Intervention of some of his own Ministers and other Persons that seem'd to have a warm concern for his Service; setting forth that 'twas the Interest of the Empire, and of the House of *Austria*, not to renew the Triple Alliance, that so the King of *France* might be more readily tempted to embark in a War with the *Dutch*, who in regard of their Heresy, their antient Revolt, and their haughty Carriage for some time past, did sufficiently deserve to be a little humbled; that the Power of the *Dutch* was so great, and the Situation of their Country so advantageous, that the *French*, tho inur'd to difficult attempts, would find them a Match hard enough: Whereas if the House of *Austria* enter'd into a League with the *Dutch*, the *French* would thereupon ground a pretence that now they wanted, to seize *Flanders*. They represented further, that by this means the *Dutch* would be oblig'd to give up all the places they had taken by Usurpation from the Princes of the Empire; that a Neutrality would be equally advantageous and glorious to the Emperor; that to espouse the Cause of the *Dutch*, was following the Fortune of a Republick that would repay him with Ingratitude, a common Vice in all popular States; that as soon as ever the *Dutch* brought their own matters to bear, they would not trouble themselves much about the concerns of their Allies; that his Imperial Majesty might readily call to mind how in the Peace of *Westphalia* they deserted *France* that had supported 'em for fourscore Years: And on the other hand, that if the Emperor kept himself clear of any ingagement, he would render himself considerable to all the World, and in process of time might become the Mediator and Umpire of all Europe.

These Remonstrances had the desir'd effect upon the Emperor, insomuch that he writ to the Bishop of *Strasburg*, that he approv'd of the League which the Elector of *Cologne* and the Bishop of *Munster* had made with *France*; and *Commandeur de Gremonville* had no sooner acquainted him that the King his Master was preparing to make War with the *Dutch*, than he engaged in a private Treaty concluded in the latter end of 1671. not to assist the *Dutch*, provided his most Christian Majesty and his Allies made no attempt upon the Dominions of the Empire, or upon those of the King of *Spain* his Nephew.

The Empe-
ror ap-
proves the
Confedera-
cy against
the Dutch.

He signs a
private
Treaty
with Gre-
monville.

The King of *France* having made the necessary dispositions for the Success of his Expedition by Land, had at the same time omitted nothing by Sea. He knew that the King of *England* relented in his ardour for the Triple Alliance, and had

The K. of
England
dissatisfy'd
with the
Dutch.

reason to be dissatisfy'd with the *Dutch*; for they had actually refus'd to observe the Articles stipulated in the Peace of *Breda* relating to their Commerce to the *Indies*, their Vessels had refus'd to strike to the *English*; and tho upon the Remonstrances of the King of *England*'s Ambassador at the *Hague*, they at last resolv'd to strike, the Condescension was only made upon Condition, that the *English* should declare for them in opposition to *France* in case of a Rupture, which render'd their Resolution of no Consequence, and seem'd to put an Affront upon the *English* Nation, by laying open the Treachery of the *Dutch*, and the little strefs that's to be laid upon their Friendship.

Colbert de Croissy Ambassador from *France* to the Court of *England*, after having set forth to the King of *England* all the Reasons he had to be dissatisfy'd with the *Dutch*; after reminding him of the Medals in which the *Dutch* attributed to themselves all the Honour of the Peace of *Aix la Chapelle*, and treated the Mediation of *England* with so much contempt; He at last gave him to know, that the Time was come of being reveng'd upon a Nation that had so little respect for Kings, and he could never meet with a more favourable Opportunity, since several *German* Princes had already enter'd into the Confederacy; and the King of *France* was strong and powerful enough to be able to assure his Allies, that all due Satisfaction should be made to their Glory and Interest in the sequel of this War.

He enters
into a Treas-
ty with
France
against the
Dutch.
Dutchess
of Orleans
goes to
England.

Upon this Representation that Prince sign'd a private Treaty with *France*: And to give him farther Assurances upon the Matter, *Henrietta* of *England* Dutchess of *Orleans*, a Princess whose Wit and Capacity was equal to her Beauty, Sister to the King of *England*, and Sister-in-Law to the King of *France*, cross'd over to *England* in 1670. and in the Name of the most Christian King made a Proposal to her Royal Brother, of insuring to him an Absolute Authority over his Parliament, and re-establishing the Catholick Religion in the three Kingdoms of *England*, *Scotland*, and *Ireland*. But with the same Breath she gave him to know, that in order to compass this End, there was a necessity above all things of lowering the Pride and Power of the *Dutch*, who placed their whole study in sowing and fomenting Division among their Neighbours, and of reducing that State to the narrow compass of the Province of *Holland*, of which the Prince of *Orange* should be Sovereign, or at least perpetual Stadtholder: That the execution of this Project might be easily accomplish'd by two powerful Princes strictly allied; that by this Scheme the King of *England* should have *Zealand* for a Retreat in case of necessity, and the rest of the *Netherlands* should remain in the hands of the King of *France*, if he could make himself Master of it.

The French
make Pre-
parations
for War.

The most Christian King having by such means engag'd *England*, *Cologne*, and *Munster* in his Interest, and being at the same time assur'd of the Emperor's Neutrality, began to make Preparations both by Sea and Land. He fitted out a numerous Fleet, and order'd his Troops to march towards the *Rhine* and the *Maese*; he caus'd Magazines to be made, and levy'd Men, either publickly or privately, not only over all his own Dominions, but in *Suitzerland*, *Italy* and *England*: And upon the Consideration that before all these Preparations were made, the Marquis de *Lovoy*, Minister and Secretary of War, is said to have computed the whole Charge of the War at thirty six Millions a Year; and that *Colbert*, the Minister that took care of the Finances, is said to have affirm'd, that they might depend upon Fifty; upon these Considerations, I say, the *French* began to look upon the Undertaking as infallible. 'Tis true, some could not readily believe that *France* was able to raise fifty Millions for the Charge of the War alone, since in former Times it had never afforded such a considerable Fund for the whole Charge and Demands of the King and the State.

The Riches
of France.

Some
Thoughts of
Commerce.

But those who knew what Commerce was, had already represented to the King, that that was the only side for him to attack the *Dutch* on; that their Land Possessions being of narrow compass, and very populous, but incapable to produce a sufficient stock of Corn to feed the Inhabitants, could not well do without *France*: That on the other hand, *France* was the only Country of *Europe* that abounded with plenty of all the necessaries of Life, and could, without pinching it self, furnish all the Northern Countries with them: That the *Dutch* having forfeited the King's Favour, ought at the same time to lose all the Advantages of Commerce; that 'twould therefore be proper to lay new Imposts upon all Commodities; and that this was a sure way to raise the Customs, and enlarge the King's Revenue.

These Measures seem'd to be very just; and indeed one would readily have thought, that a Kingdom so rich, both in fertile Productions, and the Industry of its

its Inhabitants; a Kingdom seated as 'twere in the Center of the World, between Spain, Italy, Germany, Switzerland, the Netherlands and England; a Kingdom to which all other Nations had been forc'd to have recourse, either for Correctives of the Rigor of their Climates, or for redressing the Ignorance of their Artisans: one would have thought, I say, that a Kingdom under such happy Circumstances should quickly ingross all the Commerce of the World; and forbear either to send its Money into Foreign Countries, or to put a value upon the Commodities in which the Riches of *Holland* consist; and that in a short time the World would see whether a Kingdom replenish'd with Captains and Souldiers, or a Republick crouded with Merchants, suffer'd most by the War at Sea, with which *Vanbuningue* threatned France.

In effect, his most Christian Majesty had no sooner prohibited Foreign Manufactures, than the *Dutch* complain'd of it in 1670. by *Groot*, whom they sent to France with the quality of their Ambassador, as being a prudent moderate Man, and fit to supply the room of *Vanbuningue*, whose Conduct had not pleas'd. *Groot* set forth, that the States General desir'd nothing more passionately, than the Alliance and Friendship of the King, which had always been so dear, so serviceable, and so glorious to them; that in order to keep up that Alliance, there was a necessity of putting all Treaties in execution, and above all, of keeping up a friendly Correspondence between the Subjects of the two States, which could only be done by the means of Commerce, in which both of 'em find at once a Pleasure and an Advantage. He added, that forasmuch as a good Understanding is generally grounded upon Interest, the States General had justly foreseen, that as soon as his Majesty rais'd the Duties of his Commodities, the antient Amity that had always been entertain'd between the two Nations, would dwindle and almost vanish in the twinkling of an Eye; and that since the raising of these Duties, the same mischief had actually insued. He set forth, that the States General intreated his Majesty to lower them for the Satisfaction of the World, and to prevent the utter ruin of Traffick, which might justly be call'd the Soul of Civil Society: That those who have an easy and a ready Subsistence were a happy People; that this Subsistence was grounded upon Labour, by which they enabled themselves to give that with which they were overstock'd, in exchange for what they wanted; that Labour and Industry was of no use without the vent and exchange of Commodities: so that upon the whole it appear'd evident, that in order to an easy and happy Life, there was a necessity of encouraging and facilitating Commerce by all means whatsoever. That God in his Providence having deny'd to each Country the Production of all things that tend to compleat the Felicity of the Inhabitants, had put Commerce into their hands as the Bond of Universal Society, and accordingly had diversify'd the Soil and Climates, to the end that each Country being stock'd with somewhat peculiar to it self, might spare its Surplusage to its Neighbours, and so all of 'em partake of the Riches of the Univerſe: That pursuant to this Rule, 'twas evident that the Sovereigns who encourage Trade, promote the Felicity of their People; and that on the other hand, such as cramp it with new Duties, constrain their Subjects to keep by 'em their useless Lumber, without a possibility of procuring what is necessary for 'em. That the States General foresaw with regret, that if the King continu'd to lay new Imposts upon Foreign Goods, the other States would be oblig'd to do the same in their own defence, upon which Trade would sink altogether, and then at the long run they would be forc'd to reinstate things upon the antient foot. In fine, that the States General chose rather to owe the whole Obligation to his Majesty in the redress of such Grievances, than to have recourse to other Expedients; and hop'd his Majesty would put in execution the Treaty of Commerce concluded in 1662. and so renew the antient Alliance, and give 'em fresh Proofs of his Friendship.

Groot Ambassador from Holland.

Sollicites the King to restore free Commerce.

But all these Arguments made no impression upon a Prince that look'd upon 'em as so many Fetches of Interest, and not as the Result of a just Remorse for having disoblig'd him.

On the other hand, *Groot* instead of pursuing his Sollicitations, was so buoy'd up with the flourishing Condition of the Republick which he represented, that he complain'd with impatience of the Time spent in coming to a Resolution, tho at the same time he knew very well that such Delays were usual in great Courts; and told 'em roundly, that the Concerns of such a Potent Republick ought to meet with a distinguishing Dispatch.

Notwithstanding that the news of a League between *France*, *England*, and some *German* Princes was whisper'd abroad, he could not imagine that *England* would quit the Triple Alliance; and declar'd that the noise of this League was only a Rumor given out by the *French* to amuse the World. Of this he thought he had convincing Proofs from the present Conduct of the King of *England*, who had lately suffer'd a considerable *Dutch* Fleet to depart his Ports with safety, and at the same time had discharg'd some *Amsterdam* Vessels; who had recall'd Sir *George Downing* his Ambassador at the *Hague*, for dropping some haughty Words to the States General; and in all his Actions shew'd a sincere Intention to live in a good understanding with *Holland*. On the other hand, *Spain* promis'd to stick firm to the Triple Alliance, to refuse the *French* a passage thro *Flanders*, and never to forsake the *Dutch*, notwithstanding the Offers made 'em by the Marquess de *Villars* the *French* Ambassador at *Madrid*, of surrendring all the *French* Conquests in the *Netherlands*, provided they would quit the *Dutch* Interest.

Upon the whole, *Groot* depending upon the apparent Prosperity of the Republick, writ to the States General, that in regard there were no hopes of obtaining any Satisfaction from *France* with reference to Trade, 'twas scandalous to wait so long for a Grant, which they were able to procure in a more glorious manner; that they ought to serve the *French* as the latter had serv'd the Republick, and clog the *French* Goods with the same Prohibitions that he had laid upon theirs; and as *Holland* had lost considerably upon their Woollens, since the *French* began to counterfeit 'em, 'twas the Interest of *Holland* to imitate the Silk Manufactures, that they had formerly left to the *French*, that so the latter might be an answerable Truck to the former; that in order to set up the Silk Manufactures in *Holland*, it behov'd 'em to send Ships to the *Mediterranean*, to buy up Silks at the first hand in *Italy*, *Turkey*, and the *Levant*, and to make great Offers to the *French* Workmen to encourage 'em to come into *Holland*: That this Method was the most proper, in regard the Sea Carriage would cost but little, and so they might afford 'em at lower rates than if they had imported 'em by Land, after passing thro different States, crossing rugged Mountains, and paying not only dear Carriage, but fresh Duties that would always accrue: That by this means they would get by Silk what they had lost upon Wool, and intirely ruin the *French* Trade, and in a short time make *Holland* the Granary of all the Commodities of *Europe*. He added, that in relation to the *Indian* Trade, of which the Republican Companies were so jealous, they had no reason to fear the new *French* Companies; that Trade would always flourish in a Republick, that proposes only the Advantage of the private Subjects, whereas in Monarchical States every thing was sway'd by the Caprices of Kings or their Ministers: That they ought to continue the fitting out of Ships for the *Indies*, where the *French* would infallibly ruin themselves for want of the constancy and steddiness that's necessary to bring that Trade to bear: That a People born under a mild Climate, and in a plentiful Country, and accusom'd to the Pleasures of Life, would never brook long Voyages expos'd to the rigor of Elements, to Watchings, Fatigue, and oftentimes even Death it self: That on the contrary, the *Dutch* born upon Banks in the midst of Ice, beaten with Winds and Storms, and brought up to Poverty and Labour, were forc'd to earn their Bread with the sweat of their Brows, and constrain'd in a manner to acquire by their Industry what Nature has refus'd 'em.

He set forth, that the *Dutch* Merchants had a great Advantage beyond other Nations, in selling their Goods at lower rates; that they were the only People that could afford to undersell, by contenting themselves with few Seamen; and above all by saving, and contemning those who must live ashore upon their arrival at every Port, and comfort themselves under the fatigue of a long Voyage with chargeable Pleasures.

Groot despises the French new Indian Companies.

He represented farther, that tho the *French* had already a great many Ships abroad all over the Ocean; tho they had penetrated to *Canada*, and both the South and the North *America*; tho they had visited *Africa*, cross'd the Line, taken *Madagascar*, and push'd their Arms to the remotest parts of the East; they would quickly be discomfited with such Fatigues, and sick of such a difficult Trade, and so return to their own Country: That the Sea was the genuine and native Air of the *Dutch*, which gave 'em to know that the Empire of the Seas was allotted to 'em by Heaven: That *France* abounded with plenty of all things, an Evidence that they ought to enjoy all the Conveniences of Life. He acknowledg'd, that if ever *France* rose to a pitch of Grandeur and Felicity, it must be under the reign of a Prince that pursu'd all the measures of Government with Application, that was assisted by

by able and faithful Ministers, and whose only view was to render his People happy by Arms and Navigation. But still he insisted that the *Dutch* ought not to be afraid of any thing; that if *France* declar'd War against them, they would find Corn in other Countries; that without dispute they were of stronger Constitutions, and better season'd to the Sea than the *French*; that their hands were as proper for Manufactures as the *French*; that if they had occasion to draw their Sword, they had Arms to defend themselves, abstracting from the Triple Alliance, which could not fail to succour 'em: And in fine, that all things favour'd them, and that the Earth, the Sea, the Air, and both Art and Nature it self were on their side. He concluded, in requesting the States General to recal him from his Embassy, upon the consideration that 'twas not possible to appease *France*, and that he saw himself in danger of being commanded away as soon as the most Christian King was ready to declare War against the Republick; which certainly he design'd to do, as it appear'd from the small regard he had to the Sollicitations of *Holland*, from his mighty warlike Preparations, and from the very talk of the People who oftentimes foresee great Events.

As soon as the *Dutch* receiv'd this Advice, they laid Duties upon the Manufactures of *France*, in the very interim that their Remonstrances were under consideration at the Court of *France*. The King displeas'd with the Conduct of the *Dutch*, who at once requested and threatned, and proud of being Umpires between Sovereigns, pretended to be upon the same level with Kings, and to brave them on all Occasions: The King, I say, receiving this fresh Provocation, took up a firm Resolution of declaring War against them. And in the mean time, the Spring being not yet come on, enter'd into secret Measures with the King of *England*, in order to attack 'em in concert, and surprize 'em both by Sea and Land.

Occasions of War.

As for the King of *England*, he had Difficulties enough to struggle with: There was a necessity both of Secrecy, and of Money to carry on the Enterprize; and he could raise nothing from his People without assembling them in Parliament, which would discover his Designs to all *Europe*; not to mention that the Differences which commonly arise between the two Houses, and the Intrigues of the *Dutch* might dispose that tumultuous Assembly to reject the Project. However the most Christian King sent him a sufficient Sum of Money for fitting out a considerable Fleet; and the better to conceal the Confederacy, advised him to signify to the *Dutch* that he meant to keep up a good Understanding with them, to appear firm to the Treaty of the Triple Alliance, and to give out that he would not have fitted out a Fleet, if it had not been that his Neighbours, and *France* in particular, made great naval Preparations in all their Ports upon the Ocean.

At that time there appear'd, during the whole Month of *January*, a dreadful Comet, of a pale bleuish colour, coming from the *French* side, and casting a blazing Tail over the *Netherlands*, as a Presage of the Misery that was to befall these Provinces.

1672.
A Comet in the Netherlands.

While some of the *Dutch* were gazing upon the Comet, either out of Curiosity or Superstition; those who minded only State Affairs, and with a height of Spirit contemn'd that sort of Presages, were struck with astonishment, when they receiv'd intelligence, both from the Foreign Ministers at the *Hague*, and from their own Ambassadors residing at the Courts of Princes, that *England* had quitted the Triple Alliance, and enter'd into a League with *France* to declare War against *Holland*. Pensionary *Witt* receiv'd the News in the Assembly of the States; and in reading the Letter that contain'd the Advice, fell back upon his Chair almost in a Swoon; but the very next moment he recover'd himself, and calling up his natural Vivacity, encourag'd the States, and made a Proposal of sending *Meerman* to the King of *England*, *Amerong* to the Elector of *Cologne*, the Bishop of *Munster*, and the Elector of *Brandenburg*, and *Brasser* to the Princes of the House of *Lunenburg*. Above all, he advis'd 'em to order their Ambassadors and other Ministers in the Empire, *Spain*, *Sweden*, and *Denmark*, to press the Negotiations already commenced; and without further delay to conclude all the Treaties that might retard the Attempts of *France*.

The Spaniards still frighted with the Rapidity of the Conquests of the most Christian King, and fearing to lose all *Flanders* if the *Dutch* should be over-run by *France*, resolv'd to support 'em for the common defence of the *Netherlands*, and order'd Don *Emmanuel de Lyra* their Resident at the *Hague*, to sign a particular offensive and defensive League with *Holland*. At the same time they order'd the Marquis del *Fireno* to follow *Meerman* the *Dutch* Ambassador, and in concert with him

The Spaniards sign a Treaty with the Dutch.

him to use all sorts of means to oblige the King of *England* to break off his new Treaty with *France*.

The E. of
Branden-
burg signs
a League
with Hol-
land.

A Charac-
ter of that
Prince.

Things were at this pass, when *Frederick William* Elector of *Brandenburg* gave an Example to the rest in signing first a League with *Holland*. The Provinces he possess'd, the Troops he had on foot, and the splendor of his Court, which was always full of Princes, Lords and Officers of *Germany*, *France*, and all other Nations, mov'd him to look upon himself as more potent than all the other Princes of the Empire, and as magnificent as the Northern Kings. His Years which were already well advanc'd, and his solid Judgment, excited in him that noble Ambition which Birth, Fortune, or Genius are wont to raise in great Souls: and as his external Gesture and Actions had something in them that was great, his inward Views were yet higher, and he dwelt incessantly upon the means to enlarge his Glory and Puissance. The Peace of *Westphalia* put a stop to his Design of making Conquests in *Germany*, and retaking *Pomerania* from the *Swedes*. He had oblig'd *Poland* to acquit him of the Homage due to them for the *Ducal Prussia*: And meaning to raise himself at any rate, had an eye upon the Office of Stadtholder of *Holland*, vacant by the death of *William* Prince of *Orange* his Brother-in-Law; and tho it had been sunk without any probability of ever being restor'd to *William Henry* Prince of *Orange* his posthumous Son, then an Infant, loaded with Suspicion, and Heir to all the Hatred that the good Republicans bore to his Father; the Elector nevertheless wish'd for it, because his Dominions upon the *Rhine* were blended with those of the *United Provinces*. He fancy'd that if he could be once invested with that Dignity, he would readily find Expedients to perpetuate it in his Family; and if an Opportunity offer'd, he flatter'd himself with the hopes of bringing the *Dutch*, either by Force or Stratagem, under that Yoke that they were charg'd with projecting for the Necks of their Neighbours.

In pursuance of this Project, ever since the Year 1655. he had continu'd in Alliance with the States General; conniv'd at their Usurpations in the Country of *Cleves*; forbore to make a Demand of the Money they ow'd him; gave 'em leave to possess and garison several of his Places; espous'd their Quarrel in the Contests they had with their Neighbours; back'd and supported their Mediation between the Bishop of *Munster* and the Duke of *Brunswick Wolfenbuttel*; rejected the advantageous Proposals of several Princes of the Empire, and the Offers made to him by the Count de *Saint Geran* and *Verjus*, in the Name of *France*: And, in fine, endeavour'd by all means whatsoever, to purchase the Friendship and Trust of the States General. But when *Amerong* acquainted him with the Threats of *France* and *England*, he was so transported with jealousy that all the Princes of *Europe* had conceiv'd of the Puissance and Reputation of his most Christian Majesty, that upon the first Proposal made by the *Dutch*, he offer'd to assist 'em, and enter'd into a Treaty with them. He consider'd that the present Juncture gave a favourable opportunity to carry on his Design. The Prince of *Orange* was not yet declar'd Captain General of all the Provinces: On the contrary, *de Witts* Party oppos'd it vigorously, and this gave him occasion to hope to be Commander in chief of their Armies: After which, by the gradual Advances of Intrigue and Cabals, and by the force of his Arms, he hop'd to establish his Power and Sovereignty over the Republick, to recover with Interest the Places and Possessions that remain'd in their hands, and at the same time to make head against the Attempts of *France*.

The Arti-
cles of his
Treaty
with Hol-
land.

To lay his Plot yet surer, he had stipulated in the Articles of his Treaty, that he should be Commander in chief of his own and the Republick's Army, that his Orders should bear a preference before those of all the other Generals; that of the twenty thousand Men, of which one half was to be rais'd and maintain'd upon his Charge, three thousand Foot and six hundred Horse should garison his Towns in *Westphalia*, that he should have Power to augment or diminish the Garisons of these Places at pleasure; that he should have power to make Magazines in the Dutchy of *Cleves*; and that in passing thro all the Places that had *Dutch* Garisons, he should be attended with a guard of at least two hundred Horse, who should receive Orders from none but himself.

The Dutch
arm.

In the meantime the Emperor, and the Northern Crowns, did not yet discover any willingness to embark in the Quarrel, and none but the Elector of *Cologne* and the Bishop of *Munster* kept close to *France*. The States General being thus assur'd of the Friendship or the Neutrality of the most considerable Princes, and remaining uncertain as to the Designs of *England*, and seeing no Enemy to fear but *France*, came to a resolution of using all manner of Precaution, in fitting out seventy two Men

Men of War, and raising in *Germany* twenty thousand Men, who when join'd by the Standing Troops of the Republick, the twenty thousand *Brandenburgers*, and six thousand *Spaniards* that were already arriv'd at *Ostend*, with some other Troops rais'd in *Switzerland* and *Denmark*, seem'd to make a sufficient Force for acting against *France* upon the Offensive as well as the Defensive. They thought it impossible for *France* to reach 'em by Land, considering that on one side the Catholic *Netherlands* were their Barrier, and on the side of *Liege*, *Cologne* and *Munster*, they were covered by the *Maese* and the *Rhine*; besides, they thought the *French* would scarce make any advantageous use of the Passage allow'd them by their Allies; and that being shock'd with such Fatigue in the midst of Water, in remote and rugged Countries, they would quickly be weary of the excessive Charge, and unsurmountable difficulties, and at every step they made be expos'd to the hardships of Hunger, Despair, and Death. In fine, flattering themselves with the thoughts of being stronger at Sea, they fancy'd themselves out of danger, and cheerfully prepar'd for War.

In the mean time they could not agree upon the General Command of their Armies. The Sticklers for the House of *Orange*, jealous of the League with *Brandenburg*, which was supported by the *de Witts* Party, doubted the sincerity of the Elector's Protestations, That his only view in making this League was to promote the Interest of the Prince his Nephew, as he would have it to appear from the Articles of the Treaty in which he had stiled him General, tho indeed all the Provinces had not given him that Quality. They would not be amus'd with such Feints, but in order to prevent his Designs, made an Insurrection in all the Provinces where the Prince had Possessions and Creatures, and caus'd him to be proclaim'd General and Admiral; two Posts that they said could not be refus'd to a Prince of such great hopes, and which had been so long possess'd by his Ancestors to the infinite Advantage of the Republick.

The *de Witts* and all their Friends had nothing in view but the good of the Republick in opposing this Election. They were join'd by the City of *Amsterdam*, besides some Corporations, and the Magistrates of several Cities. To colour their Opposition they publicly remonstrated, That in so great a War as was then impending, they stood in need of an experienc'd and renowned General; that the Prince who was yet young, could not be vers'd in the Art of War; and that it would be proper to stay till his Experience and Services inabled him to merit so considerable a Post. But in their private Interviews they talk'd at another rate; they roundly affirm'd that the Prince was a Serpent foster'd in the Bosom of the Republick, which sooner or later would prove their Ruin; that they still remember'd the Attempt of the late Prince of *Orange* upon the Town of *Amsterdam*; that a Son of equal Bravery, and more Ambition than his Ancestors, belov'd by the People, and back'd by a powerful Faction, the Nephew of the King of *England*, and related to other Foreign Princes, a Son not unlikely to procure the Protection of *France* by Marriage, was too much to be fear'd to be admitted into a Post that he only courted in order to destroy the Republick; that to declare him General was the same thing with making him Sovereign; that all the Provinces being devoted to him, there was none left but the City of *Amsterdam* that was capable to thwart his Designs, and upon such an occasion even in that City a great deal of Courage would be requisite for saving once more the Liberty of so many People; that if ever *Amsterdam* lost its Liberty, 'twould lose at the same time all its Riches, all its Kingdoms, the Empire of the Sea, and the *Indian* Companies; whereas if it could once be so happy as to depress, and indeed intirely ruin the House of *Orange*, 'twould be attended with the Benediction of all Posterity, and look'd upon as the Soul of the Republick.

The States-General were divided between the Republicans and the Prince's Faction. *Beverning*, *Fagel*, and some others were for a speedy appeasement of these intestine Broils, which were as formidable as a Foreign War. They foresaw that if during these Commotions the Republick should be attack'd by so many Enemies, its Destruction would be unavoidable, the Prince's Fortune would be knock'd in the Head, and the Country reduc'd to Ruin. In so difficult and perplex'd a Juncture, they propos'd that the Prince should command the Army the next Year, upon condition of taking an Oath to observe the perpetual Edict that had suppress'd the Dignity of Stadtholder. But even this Expedient was oppos'd by the *de Witts*, who remonstrated, That if once the Prince found himself at the Head of the Troops, 'twould be no difficult matter for him to keep up his Authority during the whole Course of the War, and to fall upon speedy measures for reestablishing the Office of

of Stadtholder, and after that to make himself a Sovereign. On the other hand, the Prince's Followers thought it hard that only one Campaign should limit his Title to a Post in which his Ancestors had done such faithful Services for so many Years.

But at last both the one and the other Faction perceiving the Cloud ready to break, agreed that the Prince should command the Army the first Campaign; and in the mean time all of them should with sutable Carriage and a good Understanding push on such Preparations both by Sea and Land, as the security of the State, and the opposite Power of *France* requir'd.

Groot's
discourse to
the most
Christian
King.

Groot finding his Remonstrances were not regarded at the Court of *France*, solicited his own Return, and at last obtain'd an Order of the States to ask once more before his Departure an Audience of the King, in order to try if by some Negotiation or other he could prevent or retard the Execution of his Designs. He took occasion to wait upon the King at *St. Germain en Laye*, and in very humble Terms gave him to know, that the States were sorry to hear that his Majesty was dissatisfy'd with their Conduct; that for his own private Concern, being the Son of one that was devoted to *France*, he wished for nothing more passionately than a strict Amity and Alliance between the two Nations; that if his Majesty would vouchsafe to let him know the Occasion of his displeasure, the States would give him all manner of Satisfaction, and himself would not fail to advise them to link themselves more than ever to the Interests of *France*, and to contribute with all their might to the Glory of so great a Prince. The King answer'd very reserv'dly, as being justly sensible that Groot's Harangue tended only to gain time, that so the *Dutch* might finish all their Treaties, and his might sink of themselves for want of Execution.

Groot's
Proposals.

Why they
are not re-
ceiv'd.

Groot not discouraged, resolv'd to oblige the King to hear him at any rate; and with that view, told by way of Secret to a great many Persons, with intent that the Ministers should hear it, and so report it to the King: That *France* would one day repent of not accepting of the Proposals of *Holland*; that they had now a favourable Opportunity of taking the Republick off from the Triple Alliance; that the *Dutch* would willingly ingage to quit the Interests of *Spain*, and by way of Security for their Promise would put into the King's Hands, *Maestricht*, *Breda*, and *Hertogenbosch*; and that this would be a sufficient proof of the Sincerity of their Intentions, and of the inviolable regard they were willing to entertain for *France*. But when he saw that all these Surmises had no effect, he writ to the States-General that they had nothing to think of but War; that the Proposal of new Treaties, and quitting Places might have taken in another Juncture; that tho' *Lionne* makes the Friendship or Neutrality of *Holland*, the Foundation of the King's Projects upon *Flanders*, the Marquis de *Louvois* who had the management of Foreign Affairs till *Pompe* return'd from his Embassy to *Sweden*, seem'd to have a different View: That they were not to hope for any Accommodation, in regard that the King was ingaged in Leagues, and had already expended large Sums of Mony, and would not listen to any Proposal; that therefore he was about to return to *Holland*, pursuant to the Order of the States, and advis'd them to bend all their thoughts upon defending themselves, rather than upon hunting after Expedients for preventing a War that was from thenceforth unavoidable.

The King
renews his
Treaty
with the
English.

In the meantime *March*, the proper Season for beginning the War, approach'd, and all *Europe* had their Eyes fix'd upon the King of *France*. His Court was croud'd with Ambassadors, Envoys Extraordinary, Officers, and a prodigious number of Persons of all Ranks that came to put in for Places. 'Twas well known that the King of *England* was on his side; and being provoked by what pass'd between the *English* and the *Dutch* at *Surinam* in the *West Indies*, had renew'd his Treaty with *France*, in opposition to *Holland*, and ingaged to commence the Acts of Hostility in the beginning of *May*, provided the most Christian King did at the same time declare War against the *Dutch*.

Great Motions were then to be seen in both Kingdoms; Troops were imbarck'd in *Normandy*, and the Ports of *England*; Horse were transported from one Kingdom to the other, the King of *England* and the Duke of *York* came often to the Ports to press and hasten the fitting out of forty Men of War. But after all, upon the consideration that the Government of *England* is of a mixt form, that in matters of Importance and such as require Mony the King must have recourse to his Parliament; that the Parliament is of the same stamp with the People who are not always of the same mind, and with the Climate which is very variable; that the *Dutchess of Orleans* died soon after her return from *England*, mov'd with the weight

weight of these Considerations, the most Christian King laid no great stress upon the Alliance of *England*, and took such Measures as were proper to carry on his Designs, in case *England* fail'd him. However he did not fail to make the best use of the resentment the *English* had against the *Dutch*, and to endeavor to hook them into the War, by a certain Action that was sutable to their desire of Revenge.

The *Dutch* look'd every Minute for their *Smyrna* Fleet, which had already pass'd the *Straits* Mouth. This the *French* look'd upon as a favourable Opportunity to ingage the *English* in a certain War. With this View they gave the King of *England* to understand that such a Prize as that would furnish him with more in one Day, than his Revenues amounted to in a whole Year; that 'twas possible this might serve his occasions during the whole Course of the War, without laying him under a necessity of having recourse to his Parliament; that an Attempt of this nature would admit of no delay, especially since he knew very well that let it succeed as it would, his People elated with Prosperity, and very sensible of Affronts, would spare nothing either to carry on a War, and raise the Grandeur of their Nation by humbling the *Dutch*, or to be revenged upon the Merchants that had taken any Advantage of them, and dar'd to dispute with them the Empire of the Sea. Upon this the King of *England* resolv'd upon the Attempt, and sent his Fleet in three separate Squadrons into the Channel to wait for the *Dutch* Fleet that was oblig'd to pass that way. The Men of War were scarce got into the Channel, when the *Smyrna* Fleet was seen off the *Ile of Wight*, being seventy Sail of Merchantmen under the Convoy of six Men of War, and several Privateers, all drawn up in Line of Battel and prepar'd to ingage.

The *English* to the number of nine Vessels or Frigates, sail'd in Head to make them, without being startled at their appearing in Line of Battel, because the *Dutch* are always wont to be upon their Guard, especially when they are loaded with Goods of Value. The *English* did not know that the *Dutch* Admirals had been inform'd of their Design by *Glarges* the *Dutch* Agent at *Calais*, and that upon this Intelligence they had strengthen'd their Fleet by the Junction of some *Spanish* Ships and an *Amsterdam* Man of War that they met in their Passage; and had resolv'd to defend themselves to the last Extremity, in order to save their Goods which they usually value more than their Lives.

The English attack the Dutch Smyrna Fleet.

As soon as Sir *Robert Holmes* the *English* Admiral came in view of the *Dutch* Fleet, he fir'd some Guns to call in the headmost Ships in order to form a Line, and make an Attack; soon after he came up with a Ship of eighty Guns, and sent to desire the *Dutch* Admiral to come on board of him. At the same time he order'd the next Commanding Officer to make the same advance with his Ship, and invite the *Dutch* Rear-Admiral on board of him. His View in this Conduct was to seize upon the principal Officers by Stratagem and under the pretence of Civility, and so make themselves Masters of the whole Fleet with greater Facility, either by Force or in an amicable way.

Haes the *Dutch* Admiral meaning to save his Fleet without an Ingagement, took all the Pains imaginable to pacify the *English* by his Submission, and give them the slip by scouring off: And having sent his excuse for not daring to leave his Ship, order'd his Pilot to wait upon the *English* Admiral, and to pay him all manner of Civility. Boes the *Dutch* Rear-Admiral did not act with so much Caution, for he answer'd the *English* Rear-Admiral very roughly, that if he had any thing to say to him, he might come aboard of him. The *English* vex'd at the missing of their Aim, and having no other Captive but a poor Pilot, made Preparations to begin the Fight. The *Dutch* Pilot, transported with the Love of his Country, or push'd on by Interest, without the fears of being cut in pieces or thrown over-board, cry'd out to the Seamen in his Sloop to sheer off and give notice to the *Dutch* that the *English* were going to attack them. The word was no sooner given than the *Dutch* Seamen cut the Ropes, clapt themselves flat upon their Bellies, and turn'd the Head of their Sloop towards the *Dutch* Fleet in a moment of time. Then the Fight began; the *English* fir'd some Musket Shot upon the Sloop, and gave a broad side upon the Fleet. The *Dutch* answer'd them, and made a great Fire from their Men of War, and from some Merchant Ships of a good Force. Admiral *Haes* lost his Life, and the Fight lasted from Noon till Night. Being parted by the Night, the two Fleets lay by till the next Morning, when the *English* being reforc'd with five great Ships renew'd the Fight. At the first onset an *English* Frigate of sixty Guns, seconded by two other Ships, grappled the richest Ship in the Fleet. The

The Dutch Admiral is kill'd.

The Action of Captain Vannez. Captain of this Ship, namely, *Vannez Senior*, fought briskly for four hours; after which finding himself wounded in two Places, his Men either kill'd or disabled, his Masts and his Stern gone, his Ship shot thro and thro with Cannon Shot, and just ready to sink, he still continued to encourage and animate the handful of Men he had left, and would persuade 'em to spring in upon the *English* Frigat, in order to save themselves from being drown'd, and at the same time to be revenged upon their Enemies for the loss of their Goods. Nay, tho he was cover'd all over with Blood and Gore, he offer'd to animate his Men by his own Example, and in boarding the Frigat was kill'd, upon which his Ship sunk.

The Dutch Fleet escapes. On the other hand, *Boes* the Rear-Admiral of the *Dutch* Fleet had his left Hand shot off with a Cannon Ball; and three Merchant Ships were already taken by the *English*: so that the *Dutch* seeing their Flag Officers gone, and their richest Ships either taken or attack'd on all hands, began to despair of getting off; but towards the Evening the Sea grew rough, the Air was cover'd with thick Clouds, the Winds rose, and Rain fell in great abundance. During this favourable Fog, the *Dutch* Ships pass'd the Channel, and rendezvousing at break of Day steer'd on and arriv'd safe at their desir'd Ports.

The English desire a War. The News of an Action so little expected, made different Impressions upon the People of *England*. Some were pleas'd with the Glory of being Victors, others were vex'd that the greatest part of the Fleet should escape; some were troubled at the inconsiderableness of the Prize, and others threw angry Invectives at the good Fortune of the *Dutch*. But all of them rous'd up by the noise of War, were bent on fighting at any Rate: Insomuch that the King of *England* finding himself supported by *France*, importun'd by *Colbert de Croissy*, egg'd on by his People, and already imbark'd in Acts of Hostility, declar'd War against the *Dutch* without staying till *May*, and gave all *Europe* to know that he was forced to it by their continual Usurpations, and by their carriage to the *English* all over the Seas, and especially in the *Indies*; that in contempt of Leagues, of Wars, of Treaties of Peace, and Sollicitations that were capable to fortify the Friendship and Felicity of the two Nations, they never would send to *London* Commissaries to regulate the Commerce of the *Indies*, in pursuance of the Peace of *Breda*; but on the contrary ill treated the *English* at *Surinam*, refus'd every day to strike to the Ships of *England*, and ridicul'd the Pretensions of the *English* Nation; that they had openly protest-ed they never would strike unless the King of *England* enter'd into the League against *France*; that they had endeavour'd oftner than once to set the two Kings by the ears; that they had expos'd to publick View such Pictures, Medals and Coins as were injurious to the Glory of the two Kings; and in fine, that they made it their business to disturb the repose of *England*: All which forc'd him to take up Arms once more, in order to maintain the Honour of his Crown, and oblige the Republick to return to their Duty.

Manifesto of the French King. The most Christian King, ravish'd with Joy upon the happy Success of his Negotiations, hasten'd the Execution of his Designs with all imaginable Vigor, and in the Month of *April* declar'd War against the *Dutch*, charging them with Ingratitude to him, and with the acting of things that he could not let pass with Impunity without doing Injustice to his Glory. This done, he took care to keep up and feed the resentment of the *English*, to encourage his Allies upon the *Rhine*, and to begin the War with judicious and just Measures, by ordering the Count d' *Etrees* Vice-Admiral to go and join the *English* Fleet at the Isle of *Wight*, by sending the Duke of *Luxemburg* to the Elector of *Cologne* and the Bishop of *Munster*, in order to concert measures for attacking the *Dutch*. He gave the Command of his Armies to the Prince of *Conde*, and the Viscount of *Turenne*, and dispatch'd the necessary Orders for the March of the Troops that he design'd to command in Person.

The Preparations of the Dutch. Presently the *Dutch* fitted out above a hundred Men of War, drew together their Land Troops, repair'd their Fortifications, reinforc'd their Garisons, broke down their Bridges, and mended their Dikes, with intent to lay the Country under Water in case of necessity; in hopes that all these Preparations would revive the drooping Spirits of the People, who had been put into a Consternation by the menaces of two potent Kings. The Magistrates injoin'd Fasts and publick Prayers for deprecating the Wrath of Heaven, and imploring the Divine Bounty to inable them to resist *France*, and overcome *England*.

What shock'd them most, was the Mortification that insued upon the Declaration of War, in seeing several Shops shut up, the Banks ready to fail, their Markets and Fairs unfrequented, and their Commerce upon the Declension. This was

a very puzzling Case to the States-General. Pensionary *Witt* was of opinion that there was an absolute necessity of finding some expedient to disengage *England* from *France*; that one of these Kingdoms without the other, and especially *France* hitherto weak and of small Experience at Sea, was in no condition to attack the Republic by Sea, and at the same time would be oblig'd to keep its Troops at home for the defence of their Coast; that in order to disengage the two Kings, it behov'd the Republic to conceal their resentment of the Hostilities committed upon their *Smyrna* Fleet, to take no notice of the Declaration of War, to send back to *England* all the Vessels and Ships that were already confiscated, making in number above fourscore; and in fine, by virtue of a shew of Mildness, and proofs of sincere Friendship, to renew the Alliance between the two Nations, that were already united in the same Religion, or at least to raise a Jealousy between the King of *England* and his Allies, or set him at variance with his own Subjects.

In pursuance of this Advice, the States-General sent back all the confiscated Ships; but the King of *England* and all his Subjects were so incensed against the *Dutch*, that *Borel* their Ambassador at *London* found it a hard task to procure the releasement of the *Dutch* Ships.

The HISTORY of the DUTCH WAR.

BOOK II.

IN the beginning of *May*, there appear'd upon the *Sambre* the most Christian King accompanied by his Brother the Duke of *Orleans*, whom he had already declar'd Generalissimo of his Forces, and attended by the Prince of *Conde*, and the Viscount de *Turenne*. At the same time the King of *England*, and the Duke of *York* cross'd over to the Isle of *Wight*, the Bishop of *Munster* enter'd the Country of *Fuente*, and the Prince of *Orange* incamp'd upon the *Yffel*.

'Twas reported every where that the *French* were an hundred and twenty thousand Foot, and thirty thousand Horse; and that their Fleet join'd to that of *England* made an hundred and fifty Sail. The *Dutch* were almost as strong at Sea, and their Land Force seem'd to be able to defend the *Rhine*; so that all Nations prying with Curiosity into great Events, minded with Attention the first steps of the two great Kings, seconded by the greatest Generals of the Age.

The most Christian King, who was look'd upon as the *primum mobile* of this War, made it his business to stun his Enemies with his early Successes, to animate his Troops, and inspire his Allies with Emulation, to justify his Arms with Victory, and act up to the Expectation of all *Europe*.

Holland could not be attack'd but in two Places, viz. upon the *Rhine* and upon the *Maese*: But both the one and the other was extream difficult; for besides the depth of these two Rivers, and the many Brooks, Torrents, and Canals that run into them, there was not so much as a Ford or Pass but was guarded by some strong Place, fortified and supplied with all Necessarys for a long Defence. 'Twas likewise reckon'd almost an Impossibility to enter the United Provinces by the way of *Guelderland*, where the *Rhine* divides to form the *Yffel*, the *Wahl*, and the *Leck*; and indeed one would have thought that a Country thus split into Banks, Marshes, and Inundations, and so cover'd with Water, that it might readily be taken for a Sea full of Shelves and Rocks; one would have thought, I say, that such a Country was skreen'd from all Insults.

But over and above all these Obstacles, the Generals and Ministers were divided in their Sentiments: Some propos'd to besiege *Mastricht*, with intent to be Masters

of the *Maese*, and so enter the *Dutch Brabant* and prevent the junction of the *Spaniards*, and to make that Town a place of Arms, such a thing being absolutely necessary at so great a distance from *France*. Others took that to be an useless, difficult and chargeable Attempt, and were for marching towards the *Rhine* in order to encourage their Allies, to fortify themselves against *Germany* in case it made any stir, and particularly against the Duke of *Brandenburg*, who was putting himself in a warlike posture; to attack the very Heart of the Republick, and then facilitate the taking of the Places upon the *Maese*. In fine, all of 'em clashing one with another, saw difficulties on all hands, and look'd upon *Holland* as inaccessible.

The King's
Resolves:

The King, incircled with great Captains and able Ministers, was not at all discourag'd by so many Obstacles. His Courage and his Genius furnish'd him with Views that the rest were strangers to, and he resolv'd to attack at one and the same time both the *Maese* and the *Rhine*. The first step he made was to review his Troops. The Troops of his Household consisted of twenty three Companies of Gens d' Arms, the Gardes du Corps, the Musqueteers or Light-horse, and two Regiments of *Swiss* or *French* Guards. Besides these, he had seven and forty Regiments of *French* Foot, fourteen Regiments of Foreign Infantry, and sixty Regiments of Light-horse or Dragoons: Insomuch that his whole Army amounted to an hundred thousand Men, well arm'd, richly cloth'd, set out with Feathers and Ribbands, and such as appear'd to be spruc'd up for Triumph rather than arm'd for War.

He seizes
upon several
Towns
towards
the *Maese*.

The King divided his Troops into two Bodies: and having already sent the Duke of *Luxemburg* to command the Troops of *Cologne* and *Munster*, resolv'd to give the Command of one Army to the Prince of *Conde*. At the same time he order'd the Duke of *Elbeuf* Governour of *Picardy*, to post himself upon the Frontier. He left twelve thousand Men with the Count de *Maucre* Governor of *Aeth* to prevent the *Spaniards* sending Troops to the assistance of *Holland*. He order'd the Count de *Chamilly* to possess himself of *Maseik*, five Leagues below *Maestricht*, with intent to make that a place of Arms, and there to fix a Magazine and a Bridg over the *Maese*: And to hem in the Garison of *Maestricht* yet more, he put Troops into *Vifet*, *Tongeren*, *St. Tron*, and all the adjacent Places, which offer'd no Resistance; and left in the Country of *Liege* the Count de *Chamilly* and the Marquis de *Vaubrun* with a sufficient Body of Troops to hinder the junction of the *Spaniards* and the *Dutch*, and to cover his march towards the *Rhine*.

Besieges 4
places upon
the *Rhine*.

All things being thus dispos'd, the King, accompany'd by his Brother the Duke of *Orleans*, appear'd on the first of *June* at the head of his Army between *Rhinberg* and *Orsoi*: And having order'd the Prince of *Conde* to attack *Wesel*, and the Fort upon the *Lipe*; and the Viscount of *Turenne* to invest *Burick*, all at the same time; he so form'd his Camp, that he was in a manner personally present at all the four Sieges.

These places seated on the Bank of the *Rhine*, not far from one another, all of 'em well fortify'd, with a great River, Ditches, Canals, Bastions, Cannon, and good Troops, were look'd upon as the chief Gates of *Holland*; and when the *Spaniards* lost 'em in the late Wars, they were oblig'd to quit the *Velaw*, and lost all their hopes of subduing their Enemies.

Three Ma-
reshals of
France
quit the
Service.

The *Dutch* did not yet seem to be mov'd at the King's Approaches; on the contrary, finding he had not attack'd *Maestricht*, but had march'd toward *Cleves*, they hop'd that his Enterprizes on that side would not hinder the *Spaniards* to succour 'em by the way of *Brabant*; and at the same time thought it a favourable Opportunity to move the Elector of *Brandenburg* to take the Field, as being most interested in the matter, and even the Empire it self to oppose the Designs of *France*. But when they receiv'd Advice that the Marshals of *Crequi*, *Bellefonds*, and d' *Humieres* had laid down their Commands, because they would not receive Orders from the Viscount de *Turenne*; and that *Turenne* on the other hand pretended, as Prince of the House of *Bouillon* and Marshal de Camp General, to command all the Marshals of *France*; and that the King had decided the matter in his Favour, whom he look'd upon as an experienc'd General, that knew *Holland* where he had learned the Military Art in his tender Years, under his Uncles Prince *Maurice* and Prince *Frederick* of *Orange*: Upon this Advice, I say, they fancy'd that the absence of these three Marshals would impair the Force of the Armies of *France*. In fine, they seem'd to be but little concern'd at the King's taking Places that did not belong to them, but were only under their Protection; and by an ill-apply'd Allusion, gave out that the King of *France* had taken *Maseik* instead of *Maestricht*.

The

The States General, whose only care was to secure their own Country, order'd Troops, Ammunition and Provisions to be put into the *Grave* upon the *Maese*, *Nimwegen* upon the *Wahl*, *Arnheim* upon the *Rhine*, and *Zutphen* upon the *Issel*. They nominated their principal Officers, and sent Deputies to the Army to assist at the Councils of War, and to keep within just bounds the Authority of the Prince of *Orange*, which the good Republicans dreaded more than the dint of Foreign Arms. They threw some *Spanish* Regiments into *Maestricht*; sent the Deputies *Alva* and *Striks* to *Emmerick*, and mounted Cannon upon the Ramparts of all their Places.

But as soon as six thousand *French* Horse appear'd at *Ringelemburg*, at the distance of two Leagues from *Wesel*; and at the same time Intelligence was brought that the King was arriv'd upon the *Rhine*, all the Inhabitants of *Guelderland* and the Countries of *Cleves* and *Zutphen* fled to the Forests, the Marshes, and the fortify'd Places; and most of 'em stept into the first Boats they met with on the Rivers, lugging along with them their Wives, their Children, their Cattel, and their Moveables, with intent to get into the Island of *Betau* and the *Velau*. The Inhabitants of the open unfortify'd Places began to make an Outcry, and the Officers of the Garisons were surpriz'd to spy from their Ramparts so many Tents in the Field, and a prodigious number of Soldiers working without intermission at the cutting of Trenches; and not daring to give so much as one Musket shot in return to the continual Fire of their Bastions.

As soon as the King lay down before *Orsoi*, he sent the Count of *Gramont* to Colonel *Moulet* the Governor of the Place, to give him notice that if he did not surrender upon discretion before the firing of his Majesty's Cannon, he was to expect no quarter. But the Governor considering he was at the head of six hundred Veterans, and that in a Place, which tho' small, was strong by Situation, and had Ramparts built of the Trunks of Trees, which would not give way to Mines; upon this Consideration he thought it would redound to his Glory to make the first defence, in opposition to a Prince whose Actions drew all the Eyes of *Europe* upon 'em.

The besieg'd made a great fire from the Town, and in the night-time *Chevalier d'Arquien* was kill'd with a Cannon-shot within two paces of the King, who was then viewing the Attack along with his Brother the Duke of *Orleans*. The next day the King went himself to the Battery, and saw the Guns play against the place. *Moulet* quickly perceiv'd that they had found out the weakest place, and were going to batter it down, and thereupon offer'd to capitulate: But the King refusing any other Terms than surrendering upon discretion, he resolv'd to defend himself to the last extremity, and in order to an obstinate defence, put his Family on board a Frigate, with intent to send 'em to *Rhinberg*: But the King perceiving his design, order'd some Guns to be fir'd upon the Frigate; upon which the People that were on board left it, and soon after *Orsoi* surrender'd. The Governor and the Garison were either made Prisoners of War, or stript, and all of 'em were expos'd to the King's Anger for mistrusting his Clemency.

The King takes Orsoi.

After the taking of *Orsoi*, the King made *Cajac* Governor of the Place, and order'd *Rhinberg* to be closely block'd up. At the same time he order'd a great quantity of Fire-works, Light-boats, and other Machines lately invented for the making of Flying-bridges, and facilitating the passage of great Rivers: These he order'd to be sent down the *Rhine* from *Nuitz*, *Kesofwert*, *Duisbourg*, *Moeurs*, and other Places that he was Master of, either by Force or by the Interest of his Allies. The Elector of *Cologne* receiving Advice that the King was arriv'd in his Territories, went to wait on him in his Camp before *Rhinberg*, and after the *German* fashion invited the King to dine with him; but the King made answer, That he chose to imploy his time in Conquests rather than in Feasting.

Meantime the Prince of *Conde* and the Viscount of *Turenne* arriv'd on one and the same day, the one before *Wesel*, and the other before *Burick*; and these two places being separated only by the *Rhine*, the noise of the Cannon gave each of 'em to know that the other was besieg'd, and consequently their hopes were cut off of being succour'd the one by the other.

As soon as the Viscount came before *Burick*, he gave orders to the Count *Gadagne* a Lieutenant-General to raise a Battery between the *Rhine* and *Burick*, in order to cut off the Communication of that place with *Wesel*; he hid his Troops all around the Fortifications of the place in the Corn-fields, the Corn being then very high, so as to serve 'em instead of Trenches, and made the necessary Preparations for

Turenne
takes Bu-
rick.

Prince of
Conde in-
vests We-
sel.

The Fort
on the Lipe
taken by
storm.

The taking
of Wesel.

for attacking the place. *Vanbekerem* the Governor of the place order'd Gabions to be planted, and after making the Soldiers drink to encourage 'em, fill'd the Casks with Earth, and placed 'em upon the weakest parts, and such as were most expos'd to the Batteries: At the same time he order'd Matches to be lighted upon the Ramparts, and perceiving that his Cannon oblig'd the *French* to remove their Tents further off, he hop'd to be able to hold out: but on the third day, perceiving that the scaling Ladders were in readiness, he durst not stand a Storm, but surrender'd upon discretion.

The next day the Prince of *Conde* made himself master of *Wesel*, a place situate on the confluence of the *Rhine* and the *Lipe*, and the considerable Town of the Dutchy of *Cleves*. The Place was taken almost as soon as invested: but the besieged shew'd no consternation upon the first appearance of so great an Army; on the contrary, the Youth of the Suburbs of *Stenwegt* took up Arms and join'd the Garison; the People suffer'd several Houses to be pull'd down that were inconvenient for their Batteries; and tho the *Dutch* had no other right to the place but that of keeping a Garison in it, the Inhabitants being the Subjects of the Elector of *Brandenburg*, yet both the Garison and the Inhabitants acted in concert, and made a vigorous resistance. *Van Santen* the Governor, who had six Regiments of Veteran Soldiers for his Garison, sent the Captains *Vauroi* and *Cappel* to the Fort upon the *Lipe*, that being a small Fort of four little Bastions which commands the Town, and has the *Lipe* for its Ditch. The Prince perceiving the importance of that Fort, resolv'd to attack it, being encourag'd so to do by the Soldiers of the Regiment of *Auvergne*, who of their own accord desir'd to be led on upon the Attack, with sure hopes of taking it Sword in hand. The management of the Assault was given to *St. Abre* a Lieutenant-General, and the Count of *Nogent*, who making up to the Fort a little after midnight, enter'd it by storm, killing the Sentry and the Guard, and made the Officers and Soldiers Prisoners of War. At break of day the People of the Town were astonish'd to see the Flag of *France* display'd upon the Fort, and the Cannon turn'd upon the Town; the Women and Children began to run up and down the Streets to gather in crouds to cry, and to press the Governor and Magistrates to surrender, without waiting till Extremity. The weak-minded People made yet a greater noise in the evening, when they saw the Moon pale and livid, which they took for a presage of great mischief: But the next day the Sedition ran so high, that the Governor being attack'd upon the Ramparts and knock'd off his Horse, was oblig'd to save his Life by assuring the People he was about to capitulate. The *French* were already lodg'd upon the Counterscarp, and threaten'd the besieged. The Governor and the Officers were confident they could hold out longer, and not only purchase more Honour to themselves, but procure advantageous Terms for the Town: But the Citizens fearing that the Troops would make as sorry a defence as they did in the Fort upon the *Lipe*, resolv'd to surrender; and the Governor having given 'em to know that he would defend the Town without them, and that they might make a separate Treaty for themselves, they sent *Nieulant* and *Meugers* to the Prince. Accordingly these Deputies had audience of the Prince, and *Nieulant* having in his discourse taken occasion to cry up the *Dutch* after a manner that seem'd to throw contempt upon other Nations, the wise Prince made as if he was in a passion: upon which *Meugers* took up the Discourse, and endeavour'd to make an Apology for his Colleague; but the Prince gave 'em to understand, with a threatening Air, that if they did not surrender upon Discretion before Night, they should repent it next Morning. And to add to the consternation of the poor Citizens, who indeed were clownish enough, the Duke d' *Enguien* the Prince's Son, call'd out in their hearing for his storming Clothes: Upon this they return'd to the City, and told their fellow Citizens, they ought to surrender without delay, or else expose themselves to all the fury and outrages of War; and that the Prince only wanted an opportunity of accomplishing some extraordinary Enterprize that might redound to his Glory, at a time when the King had just taken *Orsoi*, and *Turenne* made himself master of *Burick*. In short, they sign'd a Capitulation without loss of time; and the Governor, with some of the principal Officers, had liberty to retire.

The King, who arriv'd on the *Rhine* but the first day of *June*, was pleas'd to see that *Orsoi* surrender'd on the second, *Burick* on the third, and *Wesel* on the fourth: and upon that consideration sent a Trumpet to *Rhinberg*, to give notice to the besieged of the Conquests he had made; and to acquaint them, that if they surrender'd out of hand, he would grant them honourable Terms; but if they ob-

lig'd

lig'd him to fire three Guns against the place, he would make them all Prisoners of War; and if they offer'd to hold out twenty four hours after opening the Trenches, he would put all to the Sword. The Baron *de Offeri* and Mr. *Bassum*, who commanded in the Place, were troubled at the thoughts of not defending it, at least as many days as it had held out months before. In the Evening the King sent to 'em the Duke *de Duras*, who finding them at Table, and minding nothing but drinking, thought the Reasons he had to offer would go down better when their Stomachs were empty, and so took leave of 'em. The next Morning he return'd, and gave 'em to know, that tho their Fortifications were in a good condition, and the Garrison two thousand Men strong, they could not pretend to hold out after the taking of all the neighbouring Places: That the King being in Person at the head of his Army, would have cause to be incens'd if they dare to stand out before him longer than *Wesel* and *Burick* had done before his Generals; that the least delay began to make him very uneasy, and that he allow'd 'em only one hour to surrender upon discretion, or else to expose themselves to his Displeasure. The Inhabitants were afraid of being deny'd the exercise of their Religion, and the Soldiers were apprehensive of being made Prisoners of War. But at last both the one and the other dreading the weight of his Majesty's Arms, and relying upon his Clemency, brought him the Keys on the 6th of June; and the King, who is as mild to the humble as he is rough to the haughty, granted to the Inhabitants of *Rhinberg* their antient Privileges, and the exercise of their Religion; and allow'd the Soldiers of the Garrison to march out with Arms and Baggage, Drums beating and Colours flying, and order'd 'em to be conducted to *Maestricht* with all the Marks of Honour due to a more vigorous defence.

Rhinber
surrenders.

The next day, being *Whitsunday*, after the Church of *Rhinberg* was new consecrated, the King, accompany'd by the Bishop of *Strasburg*, made his entry into the City under the Acclamations of the People; and at the Church-door was receiv'd by the Elector of *Cologn* with the Cross and the Holy Water, to the great astonishment of the *Germans*, who did not imagine he would have thus perform'd an Office that the Emperor himself would not have requir'd at his hands: But the Elector alledg'd that the Function he bore upon that occasion was very honourable, and that he did it only as an Archbishop; and above all, that his private Interest sunk all other considerations, at a time when the King was putting into his hands a City that the *Dutch* had usurp'd from his Predecessors, and was one of the principal Inducements that mov'd him to declare War at this time.

The King
restores the
Rom. Catholick
Religion
in his
Conquests.

At the same time the Bishop of *Munster* had taken *Loken* and *Borkelo* in the County of *Zutphen*, and was marching on confident of subduing the whole Province. But as good and bad News are oftentimes blended together, a Rumor was spread, that the Prince of *Orange* had order'd four thousand Horse to cross the *Rhine*; that he was marching himself to *Emerick*, and that the Baron *de Mombas* Commissary-General, and *Velderen* Lieutenant-General of the Dutch Cavalry, were posted to sustain him, the one at *Fort Skin* and the other at *Nimeguen*.

Bishop of
Munster
attacks
the Dutch.

Upon receiving this Intelligence, the King after declaring the Count *d' Estrades* Governour of *Wesel*, and supplying all the Places with Garisons, gave Orders to the Prince of *Conde* to march towards the *Rhine* and observe the Prince of *Orange*; and commanded the Vicount *de Turenne* to march down the *Rhine* to the *Wahl*, in order to observe *Mombas*. At the same time he order'd both the one and the other to take all the Towns and Castles they found in their way, while himself follow'd in Person with the rest of the Troops and the flying Bridges, ready to turn to either side that should have most occasion for his Presence.

Pursuant to these Orders *Turenne* invested on the 8th of June the Fort that stands over against *Rees* upon the *Rhine*, about two or three Leagues below *Burick*. *Vandersteeve* Governor of the Fort, who had two Companies of Foot for Garison, desir'd only the Honor of one Cannon-shot before he surrender'd; but the Viscount perceiving he was afraid, instead of raising a Battery which requir'd time, order'd some Regiments of Foot to advance; and putting himself at the head of 'em, attack'd the Fort and took it Sword in hand. The Governor desiring quarter, was made Prisoner of War. Immediately the Cannon of the Fort were turn'd upon the Town, who thereupon sent their Keys to the King, as apprehending themselves lost after the taking of the Fort, and the approach of the Prince of *Conde*, who in his march upon the other side of the River, had made as if he mean'd to besiege it. Thus did the King continue his march in an Enemy's Country, making his Army as 'twere the Center of the Battalia, of which the Prince upon the right, and *Turenne* upon

Fort Rees
taken by
storm.

Town of
Rees sends
its Keys to
the King.

The Dutch
quit Emer-
rick.

upon the left, made the two Wings, the one advancing towards the *Yffel*, and the other towards the *Wahl*. But upon the approach of so potent a King, attended by two great Generals, the *Dutch* quitted *Emerick*, *Groes* surrender'd to the Bishop of *Munster*; the Count of *Choiseul* took *Utz* and *Dorecum*. *Calcar* and *Cleve* laid open their Gates, and supply'd the Troops with Provisions: In fine, all the Country on this side the *Yffel*, the *Rhine*, and the *Wahl* as far as the *Maese*, stoop'd to the Will of the Conqueror.

The Sea-
fight at
Sole-Bay.

In the mean time the War was carried on at Sea, and the advantage was pretty equal between the two Kings and the Republick. The Duke of York Admiral of the *English* Fleet, which consisted of almost a hundred Ships, twenty thousand Men, and four thousand Guns, having gain'd the windward of the *Dutch*, who had endeavour'd to prevent their getting out of the *Thames*, join'd the Navy of *France* commanded by the Count *d'Estrees*, which consisted of forty men of War, thirteen thousand Men, and two thousand Guns: And the King of *England* being then at *Portsmouth*, had the goodness to go on board the Count *de Estrees* his Ship, to shew the mutual Confidence of the two Nations in one another. The two Fleets joining, cruis'd in the *German* Sea, and return'd to *Solebay* upon the Coast of *England*, to take in Water and Provisions, with a Resolution to put out again and attack the *Dutch* Fleets of Merchantmen, by the taking of which there was more to be got than by meddling with their Men of War.

The *Dutch* again had on their side fourscore large Ships, and fifty small Rates; twenty two thousand Men, and four thousand Guns. Thus did these three great Armies prepare to fight for the Empire of the Sea, and gave to each of the three most warlike Nations in the Universe equal hopes of Victory.

The Republick placed all their Safety in their Fleet; they saw themselves expos'd to the Attacks of two great Kings, and the Will of the Prince of *Orange*, who was no sooner declar'd General, than he refus'd to listen to the Deputies sent by the States to assist in the Council, and pretended to carry all with an absolute Sway.

The *de Witt* Party, back'd by the Deputies that the Prince had slighted, made a Proposal to the States-General of making *Cornelius de Witt* Plenipotentiary at Sea, where he had acquired so much Glory in the late War, by burning the *English* Fleet in the *Thames*. Their design in making this Proposal was, to divest the Prince of the Command of the Fleet, and so to counterbalance his Interest, that the Republick might be in readiness to oppose their Domestick as well as their Foreign Enemies.

The Motion was warmly oppos'd by the favourers of the House of *Orange*, who alledg'd that at this rate *Cornelius de Witt* as Plenipotentiary, and representing the Sovereignty of the States, would have more Authority by Sea, than the Prince could have as General by Land. They made heavy complaints of a Burgomaster his pretending to the greatest Posts in the Government, and thought it strange that a Person sprung perhaps of a mean Family, should vie for the place of Admiral with a Prince that had an hereditary Title to it. They did not fail to play their game with the Vice and Real-Admirals, and particularly with *Ruiter*, by representing that the Preferment of *de Witt* would be an affront to him; that if that took place, it would look as if the States had forgot antient Services; and that it would be infinitely more to his advantage to have the Prince declar'd Admiral, in regard he could not leave his Land-army, and so would be forc'd to give him the Command of the Fleet; whereas if *Cornelius de Witt* were Plenipotentiary, an old Admiral that had gain'd so many Victories, would be reduc'd to receive Orders from an unexperienc'd Person.

But the two *de Witts* seeing thro these Intrigues, gave *Ruiter* to know, that the only thing they had in view was, the preservation of the Republick; that there was a necessity of divesting the Prince, once for all, of any pretensions to the place of Admiral; that in process of time the inferior Flag-Officers might become Admirals themselves; and that by thus dividing the great Places into several hands, they would lessen the Authority of the Prince, who would take upon him a Sovereign Power, if he were invest'd with the same Authority at Sea that he now had at Land. In fine, the *de Witts* manag'd their matters dexterously, they gain'd the Sea-Officers, they made an accommodation between *Ruiter* and *Trump*, who had had some difference, and got all the World to approve the choice of the States in making *Cornelius* Plenipotentiary at Sea.

Accord-

Accordingly *Cornelius* went on board the same Ship with *Ruiter*, and sail'd from *Schouveld* on the sixth of *June*, with a Resolution to attack the Enemies Fleets near *Soufthay*, where, as he was inform'd by Advices from *London*, they were not in a condition to fight, and wanted both Seamen, Ammunition and fresh Water. *Ruiter* soon form'd the Line of Battel, placing Vice-Admiral *Baukert* with the Squadron of *Zealand* in the Van, and *Vaughen* with the Squadron of *Holland* in the Rear, leaving in the Center the Squadrons of the *Maese*, *Friesland* and *North-Holland* commanded by himself. This done, he inspired them all with a desire of fighting, by imbracing some, shaking Hands with others, and talking frequently with the Officers and Soldiers; in fine, their Flags were hoisted, their Sails unfurl'd, their Anchors weigh'd, and all preparations made for an Ingagement.

The *Dutch* put to Sea with hopes of meeting the Confederate Fleets of *France* and *England* next morning; but perceiving they were not at so great a distance, and being unwilling to advance in the Night time, they lay by and held a Council of War. *Ruiter* was for attacking them out of hand, before they receiv'd intelligence of their coming. He set forth that in the place where the Confederate Fleet then was, both the Wind and the Currents were against them; but if they lost one moment of time, the Confederates would have time to form their Line, and perhaps might regain the advantage of the Wind, and so oblige the *Dutch* to run upon Banks of Sand, and fall a Sacrifice to the Elements as well as their Enemies.

Upon this Representation the Plenipotentiary immediatly gave Orders to hoist up their Sails; he encouraged all the principal Officers, and made himself ready to partake in the Ingagement. In a minute's time after, he appear'd upon the Deck of a Ship call'd the *Seven United Provinces* in a Magistrate's Robe, seated in a great Ivory Chair upon an Estrade cover'd with a magnificent Carpet, and surrounded with an Officer and twelve Halbardiers in his own Livery with their Caps upon their Heads, and green and blue Ribbands. By this pompous Appearance he pretended to add to the Magnificence of the Sovereignty of the States he represented, to have an opportunity of observing the motions of the Fleet and the progress of the Battel, to animate his Men, and to render the Dignity of Plenipotentiary at Sea equal to that of General at Land both in Splendor and Authority.

In the mean time the two Royal Navies, who had seen some Light at Sea before, were inform'd by a Bark belonging to the Count d' *Etrees* that the *Dutch* made towards them; from whence they readily perceiv'd that if the *Dutch* had not amus'd themselves with lying by for a Council of War, the Royal Fleets had been in great Confusion, for they did not apprehend before that the *Dutch* were so near them, and when they spy'd their Ships they had taken them for Merchantmen loaded with *Scots* Coal. However they did not fail to concert Measures for a Defence; and notwithstanding the Wind was at North-East, and contrary to them, and that the greatest part of their Seamen were on Shoar, neither the Officers nor Men were wanting in Courage; and in an Instant of time the Count d' *Etrees* drew up the Van, my Lord *Sandwich* form'd the Rear, and the Duke of *York* made the Center.

The *Dutch* begun the Fight at break of Day, and the two Vans, the Rears, and the Centers, even to the least Ships, were match'd so nicely just opposite to one another, and that with so equal a Motion as if it had been mutually concerted. Then their Blood began to rise, the Squadrons fell in upon one another, and the Air was fill'd with Fire and Smoak, with Cries, and with the Thunder of Artillery.

The *English* Admiral Ship that carry'd the Duke of *York*, fell in close with the *Dutch* Admiral, on board of which was the Plenipotentiary; and firing in with both great and small Shot, broke its Masts and Rigging, and kill'd the Soldiers, the Seamen, and even the Halbardiers that guarded the Plenipotentiary. But the Plenipotentiary in the midst of all these dangers continued unmoved in his Chair, while *Ruiter* told his Men in cold Blood, that in regard the Tide carry'd off both the Fleets, the Victory would fall to that side that made most use of their Cannon. The Ingagement between the two Admirals lasted for several hours with a great deal of equality and loss on both Sides; but the *Dutch* Admiral being assisted by a Ship of the *Maese* Squadron, and by several small Ships fitted out by the young Volunteers of *Amsterdam* upon their own Charge, all of them fell jointly upon the *English* Admiral, and oblig'd the Duke of *York* to leave her, and remove his Flag to the *St. Michael*, which he did with surprizing intrepidity.

The courage
and steddi-
ness of
Cornelius
de Witt.

My Lord *Sandwich* with the *English Rear*, made such a vigorous defence in opposition to the *Dutch Rear*, that Rear-Admiral *Gent* was kill'd in the beginning of the Fight; and Captain *Panhuizen* who took his Command having had his Leg shot off with a Cannon Ball, *Ruiter* was apprehensive that the early Death of two such Commanders might put the *Rear* into disorder, and therefore sent Captain *Brokel* with a Ship of sixty two Guns and three hundred Men to second and sustain them. This Captain presently grappled the *James*, on board of which was my Lord *Sandwich*; and tho my Lord had an hundred Guns and nine hundred Men, the *Dutch Captain* sustain'd by Vice-Admiral *Suvers*, made such a vigorous attack, that he had certainly taken the Ship if she had been high built. This Ingagement lasted for some time, and was very bloody; but at last my Lord *Sandwich* had the better of it, and oblig'd the *Dutch Ship* to surrender: But his own Ship being surrounded with four *Dutch Fireships*, and shot thro and thro in so much that they could not work her, he was forced to let the *Dutch Ship* go; and immediately the *James* taking fire, my Lord and all that was on board were blown into the Air.

The continual Smoak of the Cannon and the Fireships all in a Flame made the Air so thick and dark, that the Ships could not descry one another: Then the Squadrons, the Ships, and the Men observ'd no order in the Ingagement, and the Fight turn'd to a cruel butchering of one another.

In this dismal Confusion *Vanbergen* a *Dutch Captain*, that commanded a Ship call'd the Arms of *Horn*, took the Ship call'd the Royal *Theresa*, and forced Chevalier *Chichelei* to make his escape into another; but the Ship was no sooner taken than the *English Soldiers* and Seamen that had retir'd to the Hold, finding a small Port-hole open, got up upon the Deck, and falling upon the *Dutch* that work'd and guarded the Ship, recover'd their Liberty.

On the other hand the *Dutch Rear-Admiral Ship* commanded by *Vannez* lost its main-Mast and was taken, and Captain *Brokel* renewing the Fight was kill'd and his Ship turn'd adrift.

Night separates the
Fleets.

But tho the two Centers and the two Rears fought in Confusion, the Vans were upon another lay. The Count *d'Etrees* at the Head of the *French*, and *Bankert* with fifty *Dutch Ships*, striving to get the Weathergauge of one another, were continually cannonading and sending in Fireships without any great Advantage on either side; and their Ships kept always at the same and equal distance, insomuch that if they had been separated from the Centers at Night, one would have thought they had continued all along in the same Place and Station. In fine, the Sun being almost down, all the Ships of both sides fearing the Night drew off, and disengaged with as much Expedition as they had engaged in the Morning. The *English* retir'd to the *Thames*, the *French* bore towards *Norbai*, and the *Dutch* steer'd to *Holfernesse*, leaving behind them the marks of a common Loss that denied to either side the glory of a Victory.

Next Morning *de Witt* and *Ruiter* made ready to renew the Fight; but of a sudden their Store-ship for Powder took fire and blew up; which accident join'd to the Advice they receiv'd that the two Royal Navies taking the advantage of a Fog, had sail'd towards *England*: this, I say, made them resolve upon retiring to *Schonevelt* with intent to refit their Ships, to observe the motions of their Enemies, and above all to cover the Province of *Zealand*, which lay most expos'd to the Fleets of *France* and *England*.

The three Nations did not fail, each of them apart, to lay claim to the Honor of a Victory; above all the *Dutch* made a mighty noise of gaining the Battel, hoping by that means to reanimate their People, who were Thunder-struck with the Conquests of the most Christian King, to call up the neighbouring Princes to their assistance, and to shew the World that they were able at least to defend themselves at Sea: And forasmuch as the Fight happened on the King of *England's* Birth-day, and that the Festival Solemnity of that Day was put off upon the account of a Fire that happen'd in *London* three days before, the *Dutch* spread a report that the *English* had not the heart to solemnize a Festival at a time when they had lost part of their Fleet; and with the same breath they accus'd the *French* of deserting the *English* in the Ingagement, hoping by these false reports to stifle the good understanding that was between the two Nations. At the same time they made it their business to ballance the Factions of *Orange* and *de Witt*; they cry'd up the Conduct and Intrepidity of *Cornelius de Witt*, with intent to rivet him in the Affections of the People, and get him continued in the Office of Plenipotentiary with a general Acclamation; upon which they concluded the Prince of *Orange* would

would be mov'd by Emulation to signalize himself in the Command of the Land Army, and to omit nothing that might contribute to the defence of the Provinces that were in danger.

In effect the Prince of Orange finding that the French were advanced to the brinks of the *Wabl* and the *Yssel*, augmented his Army with some German Troops, put the Militia of *Amsterdam*, *Leiden*, and *Rotterdam* into *Heusden*, *Getruidenberg* and the *Brill*, left *Velderen* and *Mombas* to guard the *Wabl* and the *Rbine*; and fancying that the French would attempt to pass the *Yssel* in order to enter the *Velau*, which was most expos'd by reason of the lowness of the Water, incamp'd upon that River with a Resolution to dispute their Passage, and cast up Lines above fifteen Leagues in length from *Arnheim* to *Campen*.

The Prince of Orange upon the Yssel.

On the other hand his most Christian Majesty was intent upon new Conquests. His Generals, his Ministers and his Allies were divided in their Sentiments; and indeed all their Schemes were attended with great danger in the Execution, because they were oblig'd to wage War in a marshy Country, intersected with Rivers and an infinity of Canals, fortify'd with strong Places, and covered by an Army under the Command of a young Prince that was ready to sacrifice his All for the defence of his Country.

The Bishop of *Munster* was for falling in first upon the Provinces of *Friezland*, *Groningen*, and *Overyssel*, in order to prevent the Elector of *Brandenburg*, and the Princes of *Germany* and the North, their coming to succour the Republick. He consider'd that this Enterprize was more for his Advantage, because these Provinces border upon his Territories; and with that view remonstrated to the King very vigorously, that the taking of these first would facilitate his future Conquest of the rest.

Some propos'd to march into *Brabant* to cut off the Communication of the Republick with the *Spaniards*, who had already order'd their Cavalry to march towards *Holland*. Upon this Foot they meant to besiege *Breda*, *Boisleduc*, and the other places of that Country, with intent to advance towards *Zealand*, and there maintain the Descent that the Fleets of *France* and *England* pretended to make. They added that *Zealand* appear'd to be of such importance to the Republick, that *Cornelius de Witt* had retir'd thither with the Fleet in order to cover and defend it.

Others were for forcing a passage over the *Yssel*, alledging that after a defeat of the Troops of the Prince of Orange, 'twould be an easy matter to march up to the Gates of *Amsterdam*.

But the King perceiving the *Betau* a Country that's form'd into an Island by the *Wabl* and the *Rbine*, to be the Center of the Provinces, and to abound in Cattel and Pasture; made account that if he could master that, he would find Provisions and Forage for all his Armies, and separate the Provinces of the Republick one from another; and might march to *Brabant*, *Zutphen*, the *Velau*, *Utrecht*, *Holland*, *Amsterdam*, and the *Hague*, and so reap in this one Enterprize the Advantages propos'd in all the others. In pursuance of these measures he order'd the Bishop of *Munster* to continue the War in the County of *Zutphen*, and to make a shew as if he meant to pass the *Yssel*. He pass'd the *Rbine* at *Wesel*, where he join'd the Prince of *Conde*, and after giving Orders to the Viscount of *Turenne* to continue in the neighbourhood of *Emerick*, and observe the Dutch that were posted upon the *Wabl* and the *Maese*, march'd at the head of his best Troops, and incamp'd upon the banks of the *Rbine*, a mile below the Fort of *Skin*, over against *Tolus*, that appearing to be the easiest Passage for entring the *Betau*. But the Enterprize was sufficiently hazardous; for besides that the Prince of Orange who was but three Leagues off, could come up in a few hours to the defence of *Tolus* with all the Forces of the Republick, *Tolus* was a place guarded with a pretty good Tower, and there appear'd some Horse upon the Banks of the River, which the French fear'd might be a part of the Enemy's Army.

The King appears on the banks of the Rhine, over against Tolus.

The King could not believe that the Prince of Orange would quit his Intrenchments upon the *Yssel*, and so leave the *Velau* open and expos'd to the Bishop of *Munster*; whereas the *Betau* might seem to be in a manner inaccessible upon the account of the great number of their places of Strength, and the depth of their Rivers. Accordingly he soon after receiv'd intelligence both from the Inhabitants of the Country, and from all the Parties he had sent out, that the Dutch Army continued in their Intrenchments upon the *Yssel*, and that the Cavalry that had appear'd

near *Tolus* was only six Squadrons commanded by *Mombas*, who expected every minute to be join'd by *Alva's* Regiment of Foot.

Upon receiving this Advice, the King gave immediate Orders for laying a Bridg of Boats of a new Invention over the *Rhine*, in order to pass that River before *Mombas* receiv'd the Reinforcement he expected: But considering that the Bridg was long a making, and that it was not near finish'd tho a great many hands had been at work upon it; a motion was made of ordering some Squadrons of Horse to swim over the River, and rout the Enemies Squadrons before the arrival of their Foot. This motion was grounded upon a supposition, that there would be no great difficulty in passing the *Rhine* at a place where it was neither deep nor rapid, for that a little above near the Fort of *Skin* it divides into two Branches, and detaches one half of its Water to form the *Wabl*.

The Prince of *Conde* took this to be a very dangerous Enterprize, and alledg'd, that supposing the Cavalry could swim well, the stream was too rapid and too deep; that they did not know what Ground they had to land upon on the other side; that the Enemies had several Squadrons of Horse there; and that very day the Wind blew cold, which render'd the Water unsufferable; and in a word, that to make such an Attempt, would be to offer to fight, not only Men, but even the Elements and deep Abysses. He gave his opinion that it would do better to finish their Bridg, to build a Redoubt to cover it, to march Troops over it, and by degrees to gain as much Ground on the other side as would suffer 'em to draw up in Battalia, upon which *Mombas's* Squadrons would be constrain'd to retire, or else the whole Dutch Army must come to their assistance.

The King was at a loss what Advice to close with, when the Count of *Guiche* Lieutenant-General came and acquainted him, that in the Wars of *Poland* he had several times seen Troops swim over as great Rivers as the *Rhine*; but that here the Passage was much easier because there was a Ford in the River; and *Tolus* signifying *Toll*, seem'd to imply that this was a Place of common passage. He added, that to act with more security, he had engag'd a Boor in the Country to be his Guide in the Water, and to conduct him along the Ford; and that if his Majesty would order some Horse to follow him, he would answer for the Success; but withal, that no time was to be lost, in regard that the Dutch Troops would repair thither from the *Yssel* upon the first Intelligence, and form a Battalia of Horse and Foot on the other side with Cannon before 'em.

'Twas offer'd by way of reply to this Motion, that the Horse of the *Poles* and *Tartars* were accusom'd to swim, and that the French Troops were most of 'em new Levies, and by consequence incapable of such an uncommon Exploit. But the King finding the Count of *Guiche* so positive and confident of Success, order'd him to make the Attempt with the Regiment of Cuirassiers commanded by Count *Revel*, and the Brigade of *Pilois* that happen'd to lie next. At the same time all the Troops had orders to stand to their Arms and draw up in Battalia. The Prince of *Conde* was in his Camp on the left about a quarter of a League higher, and almost over against *Tolus*. The Count de *Lovigny* was posted with the Infantry on the Right below the place where the Bridg was making; and the King accompany'd by the Duke of *Orleans* his Brother plac'd himself between the two Camps on the Bank of the River, in order to be an Eye-witness of the Success of this great Enterprize.

Then the Count de *Guiche* having given Orders for slackning the Girths of the Horses, and taking off the Curbs to make them swim with more ease, commanded the Guide with a Detachment of Cuirassiers to take the Water; after which himself follow'd very briskly at the head of the Regiment of Cuirassiers, and the Brigade of *Pilois*, who rode in as good order as if they had march'd by Land.

Upon sight of this, the Officers and Soldiers that were not imploy'd in the Service, envy'd their Companions the Glory of the Enterprize: They would have given any thing to have had a share in an Action that was carried on before the King, and would certainly be transmitted to Posterity. The Princes, the Dukes, and all the Persons of Quality that acted as Volunteers, vied with one another who should take the River soonest, a little below the Cuirassiers, without looking for the Ford, or thinking of any thing but fighting the Enemy, who seem'd to wait for their landing on the other side: Nay, the King fretted within himself that he could not share in the Action, and the difficulty he had to contain himself was plainly read in his Countenance.

The French
swim the
Rhine,
June 12.

In the mean time the Guide had gone a pretty way in without losing ground, and the Count *de Guiche* was in hopes of fording happily, when the Garison of *Tolus* began to play upon 'em with Musket-shot, which coming from the large *Dutch* Muskets, seem'd to be Cannon-Ball. The Count *de Nogent* Marshal de Camp was kill'd, and the Guide finding he could not trace the Ford without exposing himself to the Musket-shot that whiz'd about his Ears, fell off to the right into a deeper place of the River, as dreading the Fire more than the Water. The Cuirassiers that follow'd the Guide, finding themselves off of the Ford, and weigh'd down with their Cuirasses, their Horses a swimming, and the Water rapid, the Musket-shot from *Tolus* saluting them continually, the opposite Bank of the River cover'd with Enemies, and a *Dutch* Squadron advancing to attack them in the Water: Meeting, I say, with these Discouragements, they did not march so briskly as before; but perceiving that the Count *de Guiche* follow'd 'em, swimming with the rest of the Troops drawn up in Squadrons, that he cry'd out to 'em to inspire 'em with Courage, and that the Volunteers went still on, they recall'd their Courage and continu'd their Voyage.

Then was the time when some Confusion was to be seen; some were kill'd, several drown'd, and the Water afforded a prospect of a disorderly number of Horses without Masters, and Men whom the weight of their Arms was pushing to the bottom. *Revel* who headed the Squadrons, was without any other hold than his Horses Mane.

In the mean time the Volunteers advanc'd. The Chevalier *de Nantouillet*, his Horse having slipt from under him, went to the bottom; but getting above Water again, he catch'd hold of the Tail of another Horse that drag'd him ashore. The Chevalier *de Vendosme* had been drown'd, if the Count *de Vivonne* had not push'd him into his Saddle by the Shoulder. Those who were best mounted began to approach the *Dutch* Squadron that had advanced to attack 'em, and were up to the Horse Girths in the Water. The Duke *de Coislin* and the Count *de Sants* were wounded before they arriv'd, and the Count *de Theobon* was kill'd: But the Viscount *de Begol* who headed the Cuirassiers was the first that came within his depth; upon which he kill'd the commanding Officer of the *Dutch* Squadron with a Pistol-shot, and drawing his Sword, spur'd on his Horse to join the Volunteers that began to take footing on all hands, with intent to march with them against the Enemy. The *Dutch* Squadron, tho destitute of a Commander, and in danger of being flank'd by the King's Troops, continued still to keep their ground; but perceiving that the two Squadrons that sustain'd 'em had wheel'd to avoid the Shot of the Cannon that the King had caus'd to be fired upon 'em, they follow'd the rest, and disappear'd before the *French* could come up with 'em. In fine, these three Squadrons, surpriz'd to see so many Men rise out of the Water, inflam'd with Fury and Rage, retir'd a hundred Paces further to defend themselves behind the Hedges and Ditches, and to sustain *Alva's* Regiment of Foot that was just come up to assist 'em. The Garison of *Tolus* either fled or surrender'd before 'twas attack'd: And thus the Count *de Guiche*, after drawing up all the Horse that had pass'd in sixteen Squadrons, enter'd *Tolus*, and saw himself Master of the Banks of the *Rhine*.

Viscount de Begol's Adventure.

Count de Guiche enters Tolus.

The King, who minded every Particular, took notice of the single Adventure of *Begol*; and tho 'twas at a considerable distance, took marks of him by his white Feather, with intent to recompense so glorious an Action. After the Troops had pass'd, he was going to have an interview with the Prince of *Conde* to concert the future Measures, when he spy'd him on the other side riding on Horseback and giving Orders.

The Prince had pass'd in a Boat, accompany'd with the Duke of *Enguien*, the Duke of *Bouillon*, the Prince of *Marillac*, and the Duke of *Longueville*, who would needs go, tho he was but just come off a Party that had been thirty hours on Horseback.

Prince of Conde passes the Rhine.

The Prince perceiv'd at first that the *Dutch* were not far off, and was busied in contriving Means, either to defeat 'em intirely, or make 'em Prisoners of War; but in that very moment the Volunteers hearing some noise in the Hedges, took it to be the Enemy, and rode up full speed: The Duke *de Enguien*, and the Duke of *Longueville*, egg'd on by a particular emulation, rode up to the place where the Noise was heard; and the Prince seeing them in so great danger, rode up likewise to make 'em retire. Upon the sight of him the *Dutch* Squadrons fled, but the Infantry continued posted in the Hedges, secur'd with Field-gates and Barriers. The *Dutch* were transported with Joy when they heard the name of the Prince handed about,

about, fancying 'twas the Prince of *Orange*; for to animate and encourage them, their Officers had promis'd that the Prince of *Orange* should come to bring them off: But they quickly distinguish'd the Prince of *Conde* by his Voice, when he came up and commanded 'em to lay down their Arms, and threaten'd to hang 'em if they fir'd one Musket. Upon this they ask'd for quarter in confusion and consternation.

Mean time the Counts of *Brioles* and *Luffan*, Gentlemen to the Prince, seeing him in the midst of his Enemies, accompanied only with some Volunteers, ask'd him to give order for the Cavalry on the River-side to advance; but he had not time to answer 'em. In that very instant of time the Duke of *Longueville* and the other Volunteers, more enflam'd than ever before, call'd out, *Tue, tue, Kill, kill.* The Count of *Beringhen* laid open a Field-gate behind which the *Dutch* were posted, and the Duke of *Enguien* himself leapt over Hedge and Ditch to get first at the Enemy. Upon that the Prince push'd on, from a tender desire to save his Son, animated by the heat of the Action, and perhaps flattering himself that his Presence alone would defeat his Enemies: The Prince, I say, thus mov'd, advanc'd as well as the rest, and stood the brunt as well as they of a shower of Musket-shot that the Enemy pour'd in upon 'em before they fled. The Officers and some Horse made a second discharge, and defended themselves till the Cuirassiers came up, who cut them in pieces.

He is
wounded.
The D. of
Longue-
ville kill'd.

Upon this occasion the Prince had his left Wrist broken; the Duke of *Longueville*, a young Prince of great hopes of three and twenty years of Age, and just upon the point of being King of *Poland*, was kill'd; *Guitri* great Master of the Wardrobe, *D' Aubusson* and *Tassei* fell upon the spot. The Marquis de *la Salle* rushing too far in among the Enemies, was taken for a *Dutch* Man, and a Cuirassier run him thro the Throat, leaving his Sabre in the Wound, which the wounded Person pull'd out himself with extraordinary resolution. The Duke of *Coislin* and the Count de *Sants* were wounded a second time in one day. The Prince of *Marillac*, the Count de *Vivonne*, *Brouilli*, *Termes*, *Beringhen*, *Montrevel*, *Beauveau*, *St. Aronault* and *Revel* were also wounded: The Marquis de *Cavois*, the Count de *Lionne*, *Chavigni* and *Barbesfiers* who swim'd over first, were thought for some time to be either kill'd or drown'd.

As soon as the Noise of firing was heard in the King's Camp, they did not doubt but the Prince of *Orange* was arriv'd with all his Army. The King waited with impatience for News from that side, when he saw a Horseman throw himself into the River and swim over the same way that the Cuirassiers had pass'd; and soon after it he came a beaten Road as if it had been a Bridg. The Person that thus swim'd was *Varennas*, who recounted to the King what had pass'd; upon which his Majesty immediately order'd *Toussant Rose* Secretary of the Cabinet, to write to the Viscount of *Turenne*, and at the same time gave Orders to finish the Bridg, and sent the Marquis de *Dangeau* his Aid de Camp, to offer the Prince the attendance of Physicians and Surgeons. Tho the Prince's Wound was very painful to him, and he was sensibly affected with the loss of his Nephew, his only care was to have some Infantry to secure the Post; and accordingly he reply'd to the Aid de Camp, that as soon as every thing was in a due condition to oppose the Prince of *Orange*, he would think of having his Wound dress'd.

Turenne
comes to
the King.

The King fearing that the Prince's Wound, and the death of so many Persons of Quality, would discourage his Troops, and animate his Enemies, thought it proper to send for the Viscount of *Turenne*. But in the very time that he was signing Orders for that effect, the Viscount of *Turenne* appear'd in his presence, and acquainted him, that the news of the wounding of the Prince, and the death of so many considerable Persons arriving in the Camp at *Emerick*, had put his Troops into some consternation; but that his Majesty's Letter, and the news they had receiv'd from *Langley* Mareschal of the Quarters, had rous'd up their wonted Spirit; that he had not fail'd to bring along with him part of his Troops in order to secure the passage into the *Betau*, and make the best advantage of the great Action they had just perform'd.

The King extreamly well satisfy'd with the arrival of the Viscount, pass'd into the *Betau* as soon as the Bridg was finish'd, and there found every thing in order. He had the Colours and Standards taken from the Enemy presented to him; one of which he receiv'd from the hands of *Chevalier de Vendosme*, a young Prince of seventeen years of Age, that distinguish'd himself very much, both in passing the River and in the Action within the Inclosures. Then the King went to visit the Prince of *Conde*,

Conde, and express'd his grief for seeing him wounded; at the same time he complain'd of him for exposing without necessity his Person, which was so necessary to the execution of his great Designs. This done, he left the command of the Army to the Viscount of Turenne, and return'd with the Duke of Orleans his Brother to the Camp at Emerick, where he declar'd the Duke of Enguien General, and prepar'd himself for new Conquests.

The Duke of Enguien declar'd General.

The End of the Second Book.

An Account of the Private League between K. Charles II. and the French King, to establish Popery in England, Scotland, and Ireland;

Chiefly taken from the (a) History of the Dutch War, Printed in French at Paris, with the Privilege of the French King, in 1682.

WHEN King Charles II. declar'd War against the States of the United Provinces in 1672. and assisted the King of France by Sea in the prosecution of a War which brought that great Commonwealth, and with it the Protestant Interest in this part of Europe, so very near to a final Period: It was industriously and carefully given out, that Religion was not in the least concern'd in the Quarrel. The Honour of the King of England, and of his People, so insolently trampled upon by the States-General, the hindring of our East-India Trade, with the Affronts which were put upon our Merchants at Surinam; their disputing the Sovereignty of the Sea, and refusing to take down their Flag to our Ships, unless we would promise to engage actually in a War against France, were the Causes which were publicly pretended, and answerable Artifices were made use of to engage the People to a concurrence; which were carry'd on with so good Success, that the Parliament consented to allow such Sums of Money as should be sufficient for the carrying on the Charges of that War.

Pretences of the War with Holland.

Yet these Reasons were not so plausible, but that most considering Men easily saw thro them. Those that lov'd the Protestant Interest, could not with patience endure to see the Triple League, which was the greatest Fence of their Religion against the growing Greatness of France, broken, and new Leagues made with a King whose Aim at an Universal Monarchy was then as visible, tho the Effects of it had not been near so fatal as they are now. Therefore other Methods were follow'd at home; the Dissenters were caressed, and a (b) Declaration of Indulgence was set out, wherein the King expresses so very great Zeal for the Protestant Religion, which he had so eminently professed in his most desperate Condition abroad among Roman Catholick Princes, that he allow'd to the Protestant Dissenters the publick and free Exercise of their Religion, in Houses set apart for that purpose, which was only granted to Roman Catholicks in their own Houses. And lest this might have too

More probable Inducements to that War.

(a) Which being translated, is now the first time publish'd in English in this Collection, immediately preceding this Tract.

(b) Vid. King's Declaration of Indulgence, December 26. 1662.

much alienated the Church of *England*, whose Members bore so great a sway in that Parliament, that a breach with them at that time might have stopped his Designs upon *Holland* in a great measure, by their refusing to pay the Charges of the War, he declares in the next Session of Parliament, (c) *That this Indulgence should not any way prejudice the Church, but that he would support its Rights, and it in its full Power.*

Declarati-
on of War
and Indul-
gence at the
same time.

His Declarations both at the time when this War was on foot, and ever afterwards as long as he liv'd, were outwardly so very passionate and warm for the Protestant Religion, and the Preservation of the *English* Government, that unless such frequent Repetitions of that which in good Manners none would seem to question, might look like over-doing, and so breed Suspicions, nothing could have ever shaken that Opinion which was so firmly grounded in the Hearts of all his Subjects. He professed (d) that he should esteem it the most unpardonable Crime which could be committed against himself, to raise any Suspicions of his unsteadiness in the Protestant Religion in the Minds of his People; and this restrained almost all his Subjects, who were so dazzled with his other Royal Endowments, that they could never be persuaded to suspect so much Artifice in a Prince, whose natural goodness and sweetness of Temper did so effectually charm all those who had the honor to be near his Person.

King of
France not
concern'd
at K. Ch.
II. Honor.

History of
the book of
the War
with Hol-
land.

But tho these repeated Protestations had wrought so intire a Confidence in the minds of his People, that they rested satisfy'd in the Sincerity of his Intentions, and interpreted all those Actions which tended to the supporting of the Popish Interest in *England*, to his tenderness towards the Duke of *York*, whom he resolv'd never to abandon, notwithstanding the Importunities of his People, and the safety of himself and his Kingdoms seem'd to require it: Yet the King of *France* was not so tender of his Honor, as to conceal these private Treaties and Alliances, which at his Sollicitations the King entred into against the *United Provinces*, and to the destruction of the Protestant Religion, and the overthrow of the *English* Liberties; but he consented so far to the Publication of an Account of the War with *Holland*, and of the Reasons and Motives which engaged the two Kings to carry it on, that the Abbot *Primi*, who put out the Book in *Italian*, was employ'd by Mr. *Colbert de Croissy*, and a Pension was allow'd him for his pains in publishing it also in *French*: Which Book was publish'd by Authority at *Paris* in the Year 1682. It is well known how severe that Government is in matters of that nature, where nothing is ever publicly set forth of any Importance as to the Church or State, but what perfectly agrees with the Inclinations and Interests of those who are there so very absolute. It was publicly known at *Paris*, that Mr. *L' Abbé Primi* had a Pension from Mr. *Colbert de Croissy*: and when Men are employ'd by Ministers of State to publish Accounts of the Transactions of the Government, their Writings are rather look'd upon as Apologies than Histories: It makes no real difference, whether what a Man writes in such a case, be a Translation or an Original, he will be suppos'd to have endeavor'd to please those who employ'd him, and all the fair Protestations of Sincerity, and Faithfulness, and Skill which such a man can use, will be only look'd upon as Words of course, when once the Reasons of his setting up for an Historian are publicly known. The Original of the Count St. *Maiolo* was printed in *Italian*; and the Privilege ran as well to the printing it in *Italian* as *French*. However I do judg that the Name of Count St. *Maiolo* was a kind of Trick of the Abbot *Primi*, to talk of secret Alliances, of breaking Leagues, of his Master's persuading the King of *England* to seize the *Dutch Smirna* Fleet, and of several other Secrets in the Negotiations of *Holland*, *England* and *France*, in his own Name. For, when all is laid upon a Foreigner, one may speak with great assurance, and the Count St. *Maiolo* will then answer for the very things for which Monsieur *L' Abbé* receives his Pension.

The Book
stop'd at
Paris.

If our Minister at *Paris*, when this Book first appeared, had not by a timely and a diligent application procur'd its being stop'd, we might without question have had several other Important Secrets publish'd in the following Books (for we have only two Books of ten printed) which now we can only conjecture at. But the earnest Complaints of my Lord *Preston*, who was then Envoy from King *Charles II.* at *Versailles*, prevailed so far that the Book was immediately stop'd,

(c) Feb. 5. 1672. (d) Declaration of Indulgence Decemb. 26. 1662.

and the Edition totally suppressed, so that very few had ever heard of it, and much fewer especially in *England* had seen it. And to put a face upon the Matter, Monsieur L' *Abbé* was thrown into the *Bastile*; from whence after a Mock-Imprisonment of nine or ten days he was let out again. All that were at *Paris* at that time knew the Story, and all those that were at all acquainted with the Arbitrary Severity of the *French* Government, could easily see thro the Grimace; which was the better covered, because Count St. *Maiolo* was to bear all the blame; who if he be not related to *Puffendorfs Monzambano* (another *Italian* Count also) yet his Testimony might easily be over-ruled, and so could furnish those Persons with a ready excuse, whose Interest it was, that such Agreements which were contrary to their open and publick Protestations should either never be known, or if once divulged not believed.

I shall not stand to compare the matters of Fact which are here set down, with those Reports which at that time pass'd current in *England*, they are things which fall within most Peoples Memory; my business is only to give such an Account of our Proceedings, as was publish'd at *Paris* with the Privilege of the King of *France*, as fully granted as in any other case whatever. Our * Author tells us that the growing Greatness of the King of *France*, after the Peace of *P. 18, 19.* *Aix la Chapelle* was concluded by the mediation of the King of *England*, was so very terrible to the Queen Mother of *Spain*, who was Guardian to her Son *Charles II.* King of *Spain*, that she employ'd her ablest Ministers to persuade *England*, *Holland*, and *Sweden*, to join in an Alliance for the preservation of the Peace, and the reciprocal security of each others Kingdoms.

The *Hollanders*, he tells us, greedily embraced it, and ran into the Triple League with great readiness, not much concerning themselves with *France*, which they thought could make no great opposition to them by Sea; and by Land they were so fortify'd by the natural Fences of their Dikes, that they apprehended on that side no sort of danger.

A constant Series of Success against the *Spaniards*, who declar'd them a Sovereign *P. 21.* and Independent Republick in 1648. pushed them on to great Insolences against the King of *France*: they interposed in the Affairs of *Germany*, as if they had been *P. 45.* immediately concerned: they determin'd Peace or War amongst their Neighbours, as they thought would be most for their own Interest: they threatned to ruin the Kingdom of *France*, by prohibiting any Commerce with *French* Manufactures, and scatter'd Medals, and Pictures very derogatory to the Honor of the *French* King. *P. 48.* Their busying themselves so much with the Affairs of *Germany* was a means to engage the Bishop of *Munster* to keep up his Army after he had concluded a Peace *Bishop of Munster engaged in the War.* with the Duke of *Brunswick Wolfembuttel*, and to declare against the Encroachments of the *Hollanders* upon the Empire: which opportunity the *French* King laid hold of, to make an Alliance with him and the Princes of the House of *Furstemberg*, and the Bishop of *Strasburg*, against *Holland*; by which means he secured the Passes upon the *Rhine* and the *Maese*, which lay convenient for the setting up *P. 52.* on the *Hollanders* by Land, who till then had thought themselves secure from any Attacks on that side.

He engaged the Emperor also to a Neutrality, and persuaded him to ratify *P. 57, 58.* those Alliances which the *French* King had already made with the Bishops of *Munster* and *Strasburgh*, and the Princes of the House of *Furstemberg*, with assurances that he would not concern himself in those quarrels, unless either the Empire or the King of *Spain* should be invaded.

The King of *England* was already very much dissatisfy'd with the *Hollanders*, *P. 58.* and was willing enough to disengage himself from the Triple League: For the *K. Ch. II.* *Hollanders* had refused to stand to those Regulations about the *East-India* Trade, easily engaged against the Dutch. which had been concluded upon at *Breda*; and their Vessels would not lower their Topsails to the *English* Men of War, and they disputed the Sovereignty of the *P. 59.* Sea, unless the King of *England* would declare for them against *France* in case of a Breach; which things were very dishonourable for the *English* Nation, and were great Instances of the Treachery of the *Hollanders*, and of the small assistance which the *English* could promise to themselves from their Friendship.

(a) The Reader is to take notice that the References to the *History of the Dutch War* in the Margin, answer to the *French* Edition.

- P. 60. Colbert de Croissy, the French Ambassador at London, urged all these things to the King of England; he put him in mind of the Medals which the *Hollanders* published, wherein they attributed to themselves all the Glory of concluding the Peace of *Aix la Chapelle*, which had been obtain'd by the King of England's Mediation; and told him that this was the time wherein he might take his Revenge upon a Nation which had so little respect for Kings, and that he never could expect a more favourable opportunity, since several German Princes had already entred into a League, and the King of France was sufficiently powerful to satisfy all his Confederates in the Prosecution of this War, both as to their Advantage and Credit.

These things engaged the King of England to sign a Secret Treaty with France; and to make it the more firm, *Henrietta* Dutchess of Orleans, a Princess whose Wit was equal to her Beauty, Sister to the King of England, and Sister-in-law to the King of France, went over into England in 1670, and propos'd a Treaty to her Brother, in the Name of the most Christian King, wherein she proffer'd to secure to him an absolute Authority over his Parliament, and the re-establishment of the Roman Catholic Religion in his Three Kingdoms of England, Scotland, and Ireland. But she said, that before this could be effected, there was an absolute necessity of abating the Haughtiness and Power of the *Hollanders*, who only study'd to foment Divisions amongst their Neighbours; and to reduce them to the single Province of *Holland*, of which the Prince of Orange should be Sovereign, or at least perpetual Governor; which would not be difficult for these two Mighty Kings, when once well united, to accomplish: so that by this means the King of England might have *Zeland* to retire to, if there should be occasion; and that the rest of the *Low-Countries* should remain to the King of France, whenever he should be able to conquer them.

Absolute Power to be set up in England.

Ce qui engagea ce Prince à signer un Traité secret avec la France; & pour l'asseurer encore d'avantage Henriette d'Angleterre, Duchesse d'Orleans, Princesse qui avoit autant d'esprit que de beauté, sœur du Roy d'Angleterre, & belle sœur du Roy de France, passa en Angleterre en 1670, & proposa au Roy son frere, au nom du Roy tres-Chrétien, de lui assurer un autorité absolue sur son Parlement, & de restablir la Religion Catholique dans les Royaumes d'Angleterre, d'Ecosse, & d'Irlande. Mais elle disoit que pour en venir à bout, il falloit avant toutes choses abaisser l'orgueil & la puissance des Hollandois qui ne songeoient qu'à mettre la division parmi leurs voisins; & les reduire à la seule Province d'Hollande, de laquelle le Prince d'Orange seroit Souverain, ou au moins Gouverneur perpetuel, ce qui ne seroit pas difficile à deux grands Roys puissants & bien unis, & que par ce moyen le Roy d'Angleterre auroit la Zelande, pour lui servir de retraite en cas de besoin, & que le reste des Pays bas demeureroit au Roy de France, s'il pouvoit s'en rendre maître.

When the King of France had thus secur'd himself by these Alliances, he immediately began his preparations for War, filled his Stores, and rais'd Men, some publickly, and some under-hand, all over France, in Switzerland, Italy, and England.

- P. 65. Tho these Negotiations, and especially with England, were carry'd on with all the secrecy that matters of that Importance requir'd, yet the *Hollanders* had such Notices given, as did exceedingly surprize them. They could not imagine, that the *English* would quit the Triple League; they said, this was a Report rais'd by the French to amuse Mankind withal; they thought, that the present Conduct of the King of England gave convincing Proofs to the contrary: He had just before dismissed out of his Ports a Fleet of Dutch Merchant-men, and some *Amsterdam* Vessels besides; and recall'd Sir George Downing, his Minister at the *Hague*, for speaking with too much warmth to the States General: So that, in short, he seem'd in all his Actions to declare, that his Intentions of keeping up a good Correspondence with *Holland* were sincere. However, the Breaches every day grew wider and wider between France and *Holland*; and matters were carried so far on both sides, that the French King resolv'd to begin the War the next Spring: and in the mean time he took secret Measures with the King of England to set upon them together, and to surprize them both by Sea and Land.

1672.
P. 87.

Le Roy d'Angleterre de son coté estoit embarrassé, il falloit du secret & de l'argent pour faire reüssir l'entreprise, & il ne pouvoit rien tirer de ses peuples qu'en convoquant son Parlement, ce qui faisoit connoître ses desseins à toute l'Europe, outre que cette Assemblée tumultueuse par la mauvaise intelligence qui est ordinairement entre les deux Chambres & par les Intrigues des Hollandois pouvoit s'y opposer; mais le Roy tres-Chrétien luy envoya des sommes suffisantes pour mettre en mer un flotte considerable, & luy conseilla pour mieux cacher leur union de temoigner aux Hollandois qu'il vouloit bien vivre avec eux, de paroître ferme dans les traitez de triple Alliance, & de publier qu'il ne vouloit avoir une flotte que parce que ses voisins, & particulièrement les Francois, faisoient de grands armemens dans tous les ports qu'ils avoient sur l'Océan.

As for the King of England, he was exceedingly perplexed; there was need of Mony to carry on the Design, and that secretly too: He could raise none at home without calling a Parliament, and that could not be done without acquainting all Europe with his Designs: there was also great fear of opposition, both from the misunderstandings which in that Tumultuous Assembly do for the most part arise between the two Houses; and from the Intrigues of the Hollanders. For which Reasons the King of France furnish'd him with such Sums of Mony as were sufficient to send out a considerable Fleet; and he advised the King of England (the better to conceal their Agreements) to keep a fair Correspondence outwardly with the Dutch, to appear firm to the Triple League, and to

K. Charles wants mony to carry on the War. P. 88.

declare that he set out a Fleet for no other Reasons, but because his Neighbors, and especially the French, who made great Preparations in all their Ports upon the Ocean, strengthen'd themselves so very considerably by Sea.

Yet all this was not carried on so secretly, but their own Residents at London, and the Ministers of other Princes in King Charles's Court, gave the *Hollanders* such sure Advertisements of his altering his Measures, that they found it past all question. Pensioner de Witt fell in a Swoon in the Stadt-house, upon reading of a Letter which gave him an Account of it; and as soon as he had recover'd himself, he propos'd to send the *Heer Meerman* into England, to renew the old Alliances; who was immediately seconded by the Marquis del Freno, the Spanish Minister, who was sent thither on purpose to join with him in making use of all sorts of Arguments which might oblige the King of England to break off his new Treaty with France.

P. 89.

P. 91. Endeavors to break the Engagements with France. P. 93. P. 118.

But all these Applications proving ineffectual, all things tended to a War: It was known that the King of England had declar'd for France; and that being provok'd with the usage which his Subjects had receiv'd at *Surinam*, he had renew'd a Treaty with France against Holland, and had promised to begin the War, provided his most Christian Majesty would declare War against the States in the beginning of May.

But to no purpose. P. 119.

And tho the Earnestness which the King and the Duke of York shew'd in the Prosecution of this business was extraordinary, tho they set out Ships, and man'd them with all the Industry and Application possible: Yet because the Government of England was mix'd, and that in the great Concerns of the Nation, or in raising of Mony, there was a necessity of a Parliament; which is like the People of whom it is made up, not always of the same Mind; and that the variations of their Climate is even visible in their Counsels; and besides, since the Dutchess of Orleans dy'd soon after her return into France: for these Reasons the King of France did not much rely upon any Assistance from England, and so took his Measures in such a manner, that the King of England might be assur'd they must succeed in case he should fail him; and therefore he would not suffer the Rage of the English against the Dutch at that time to cool, but he rather endeavour'd to plunge them into a War, by such an Action as might correspond to their earnest Desire of being revenged.

A Fleet set out. P. 120.

And this Design soon succeeded; for the French having notice of the return of the Dutch Smyrna Fleet, which were then at Sea, they immediately acquainted the King of England with it, and told him, that this was a favourable Opportunity for him to engage the English in a certain War: They told him, that such a Prize would furnish him with more Mony in one Day, than he could get from his Parliament in a Year; and perhaps so great a Prize might put him, during the whole course of the War, in such a Condition, as that he would not stand in need of his Parliament; and that he ought not to let slip such an Opportunity,

Advice of the Dutch Smyrna Fleet's return. P. 121. P. 122.

‘ tunity, because he certainly knew, that what Success soever it might have, yet
 ‘ his People, who always carry’d themselves very high upon a prosperous turn of
 ‘ Affairs, who were sensible of Affronts, would spare for nothing which might
 ‘ carry on the War, wherein they might expect to humble the *Dutch*, and to
 ‘ revenge the Wrongs of their Merchants, and of their Nation in general,
 ‘ upon those who would dispute the Sovereignty of the Sea with them.

P. 123.

Sir Robert
 Holmes or-
 der’d to
 intercept
 the Smyr-
 na Fleet.
 P. 132.

Upon these Sollicitations the King consented, and sent Sir Robert Holmes with Nine Men of War into the Channel, to expect the coming of this *Smyrna* Fleet. And it had this effect, That tho the *Dutch* (who had some notice of it before) did in a thick foggy Night, escape without any very considerable Loss; yet this engaged the *English* to a War, which was immediately hereupon openly proclaimed by the King of *England* against the States General: Which was earnestly pressed by Mr. Colbert de Croissy, who advised him not to delay, after the striking so signal, as well as so unexpected a Stroke.

How far the Causes alledged in the Declaration of War, which followed soon after, and the Reasons by which the King endeavoured to persuade his Parliament to a hearty Concurrence with him in it, agreed with these Motives, every Man may judg. Whoever considers the Carriage of the King of *France* in other things, will not wonder at such a piece of Treachery as the publication of these Secrets was, whilst King *Charles II.* was alive: And I believe, that the sending a Man to the *Bastile* for ten Days, who was notoriously known to have been employed for this very purpose, did convince as few People of the Falshood of these pretended Alliances, as the sending of Mr. Skelton to the Tower by King *James II.* did; which was so very like, that one would think the Mock-proceedings against Mr. L’ *Abbé Primi*, gave a Pattern to the King of *England* to animadvert upon his own Minister, who by the Confession of the *French* Resident at the *Hague*, acted by his Majesty’s Order, only the Second Part of what the Abbot wrote.

An

An ACCOUNT of the Private League betwixt the Late King James II. and the French King.

In a LETTER from a Gentleman in London, to a
Gentleman in the Country.

S I R,

I AM surpriz'd at the Unbelief which your Letter informs me has seiz'd some of your Neighbours, who after a Publication in print, that in the Year 1670. there was a League concluded between *Lewis* the Fourteenth and *Charles* the Second for the introducing of Popery into *England*, *Scotland* and *Ireland*, by overturning the Fundamental Laws of the Land, have the face still to demand, where the so much talk'd of League is, between *Lewis* the Fourteenth and *James* the Second. They complain, say you, that those who had given them hopes of seeing the Original Treaty, have not been as good as their words. To speak the truth, Sir, I find something in this their unreasonable Proceeding, that at once surprizes and confounds me. I never knew that our Nation had the ill repute in the world of being senseless and stupid: Our behaviour in a case that concern'd our Religion and Liberty, has made it conspicuous to all *Europe*, that we know the importance of the one and the other, and that we are not insensible when such dear Interests lie at stake. But in the mean time, what will all *Europe* think, when they hear that some *English-men* do still doubt of a matter so evident, and are resolved to continue so, till they see the Original of that League produc'd, and have liberty to peruse it? King *James*, say they, has flatly deny'd that he had made any such League with *France*: First, by the Marquis *d'Albyville* at the *Hague*, 5 Octob. 1688. in the Memorial he presented to the Deputies of the States General. Secondly, since the Prince of *Orange's* Declaration had renew'd this Suspicion against him, the Earl of *Sunderland* hath lately writ from *Holland*, that he knew nothing of any such League.

Grounds of
doubting of
it.

These, forsooth, are the two convincing Proofs they rely upon, who will needs doubt of this matter of fact, and who by these doubts against all Sense and Reason endeavour to make this Truth pass for suspected. Well, suppose for once that my Lord of *Sunderland* knew nothing of it, and if that which he pretends of his continual opposing himself against the Popish Party be true, 'tis no strange thing, if they were loth to commit their Secrets to him. But can his Ignorance in a Case which without imprudence was not to be communicated to him, because of his great Zeal for the Protestant Religion and the Interest of the State, be a sufficient ground for us to call the matter in question? King *James* II. positively denies it in the Memorial presented to the States by the Marquis *d'Albyville*, and after that in the Answer which a Popish Lord has writ in his name to the Declaration of the Prince of *Orange*. And one would think all this might pass for a palpable Proof and incontestable Conviction of the Falseness of this pretended League. Will you give me leave, Sir, plainly to tell you, what my Thoughts are of those upon whom this Declaration of King *James* makes such an Impression, in spite of the Evidence they may have to the contrary. They seem plainly to me to renounce the use of their Reason, and to be willing that the rest of Mankind should, in complaisance to them, do so likewise. They cannot be ignorant, that King *James* II. has for many years been of the Jesuits Fraternity, or at least that he has been continually under the Conduct of their Counsels.

Those
Doubts re-
mov'd.

K. James's
Affection to
the Jesuits.

I can't believe their Memory is so short, to forget how at the time of his Shipwreck in going for *Scotland* he suffer'd many Persons of great Quality to perish, that he might save some of his Fraternity of the Jesuits Order, disguising one of them in the Habit of a *Valet de chambre*, and the other in that of a Cook. They know, that after he had made himself the Head of their Conspiracy against this Kingdom, whilst he was yet only Duke of *York*, the Effect of this his being guided by the Jesuits prov'd no less than the total Overthrow of all the Laws which he had sworn to maintain at his coming to the Crown, as soon as he had got an opportunity to execute those Projects with Authority, which the love of his own Quiet, and the fear of hazarding all, had made King *Charles* his Brother to suspend: And yet after all this they can by no means induce themselves to believe that *James II.* should dare to deny by his Minister, that he was engag'd in any League with *France*. Pray let us take a view of what he did, and therefore durst do, in contempt of the Laws of the Land, which he had sworn to observe. He sends his Ambassador to *Rome*, to testify his Obedience to the Pope; he gives way to a Nuncio from thence to reside at his Court, in order to advance the Interest of the Church of *Rome*, which he could not do without being perjur'd and cruel; he makes a Jesuit one of his Privy Council in the face of all *England*, yea of all the World, that is, a Person guilty of High Treason for having set his foot on *English* Ground, and a Member of that bloody Society, who became liable to the Punishment inflicted on Traitors, because of their Equivocations, Perjuries and Conspiracies, which are the distinguishing Character of that Fraternity. And yet in spite of all this, we will believe *James II.* so scrupulous, as not daring to hide or disguise a Truth, in a case which the Interest of the Roman Church, and the Designs he had form'd for that end with his Jesuits, did oblige him to keep most secret. Well, if it were so indeed, we must suppose it was a very difficult thing for that Prince to obtain a particular Dispensation of the Pope, for this concealing of the Truth, if the general one he had already obtain'd of him, for breaking his Coronation Oath as made to Hereticks, would not serve the turn.

His Zeal
advance
Interest
ie.

Private
League be-
twixt K. J.
and France
of a long
standing.

But pray, Sir, is not this a wilful hoodwinking of our selves, to lay any stress upon this Negation of *James II.* whilst we have a certain knowledg that there always was a strict League between the Duke of *York* and the *French* King; and to assure us, that this League has continu'd since the Duke of *York* has been advanc'd to the Crown of *England*? We have an authentick Declaration of the *French* Ambassador at the *Hague* very exprefs to that purpose. I say we cannot in the least doubt, but that there always was a strict League between the Duke of *York* and the *French* King. To be convinc'd of this, we need only to cast an eye upon the War of *Holland* in 1672. 'Tis certainly known 'twas a War of Religion, undertaken merely for the propagation of Popery. The *French* Minister manifested plainly in his Speech to the Emperor's Council, which has been since printed in *French*, that the *Hollanders* being Hereticks, who had forsaken their God, all good Christians are bound to join and unite to extirpate them, and to implore God's Blessing upon so good a Work. But how cunningly did they proceed in the Duke's Cabal, to dissemble the part they had in such a Design. 1. They reform'd the Cabinet Council, and turn'd at once out of the Committee for foreign Affairs, Prince *Rupert*, the Duke of *Ormond*, the Lord *Keeper*, *Trevor* the first Secretary of State, that was never kept out of a Commission of that nature. 2. They advis'd his Majesty to prorogue the Parliament according to the *French* King's desire. 3. They sought a quarrel against the *Dutch*, by sending a Yacht with order to sail thro the *Dutch* Fleet, and require striking to his Majesty's Flag; altho the *Dutch* Fleet was then at anchor not far from their own Coast. 4. They fell upon the *Dutch* Fleet of *Smyrna* without any Declaration of War, when the *Dutch* Ambassadors had offer'd all possible Satisfaction to the King upon this affected Quarrel. 5. The *English* Fleet fought for the *French* so bravely, and interpos'd themselves between the *French* and the *Dutch* with so good Success, that when the *English* Fleet, the Strength of our Nation, which was to be lessen'd for the execution of their Designs, was reduc'd to a sad Condition, the *French* Squadron came off as fresh and as intire as when they first sail'd out of their Ports. 6. When they sent the Duke of *Buckingham* and my Lord *Arlington* into *Holland*, they gave their Instructions for the insisting in the behalf of the *French*, altho the second Head of the *French* Demands was upon a publick Exercise of the Roman Religion in the *United Provinces*, the Church to be divided, and the Romish Priests to have a Maintenance out of the Publick Revenue.

Popery to
be set up
first in Hol-
land.

After

After this we shall do well to make some Reflections upon *Coleman's* Letters to Sir *W. Throgmorton*, the Duke of York's Agent at the Court of France. See how he expresses himself in one of them dated *February 1674*. 'For you know well, that when the Duke comes to be Master of our Affairs, the King of France will have reason to promise himself all things that he can desire. For, according to the mind of the Duke, the Interest of the King of England, the King of France and his own, are so close bound up together, that it is impossible to separate them the one from the other, without ruin to all three; but being join'd, they must, notwithstanding all Opposition, become invincible. Those who knew nothing of the League concluded between England and France in the Year 1670. were extremely at a loss what to make of those words of *Coleman*, words so express and precise, as nothing could be said more. But they who have seen the Extract of that League, publish'd by the Abbot *Primi*, easily conceive, that they refer'd to the secret League of 1670. and that the reason why the English Court has been so industrious to maintain and cultivate the Union with France, was only in order to preserve those hidden Interests they judg'd inseparable, tho the true Interest of the State was indeed diametrically opposite to the entertaining any Union with a Crown, all whose Designs were level'd at the ruin of England and the Protestant Religion.

We find much the same Stile in a Letter of Father *la Chaise*, Jesuit and Confessor to Lewis XIV. to *Coleman*. He saith, Pag. 110. 'That the French King considers his own Interest and the Interest of the Duke of York, as one and the same thing; and that if the Duke would undertake to dissolve the Parliament, the French King would assist him, with his Power and Purse, to procure such an one afterwards, as might be favourable to their Designs. Now I should think, that when one offers one's Power and Purse to a Prince, this supposes a Treaty with him, and that Prudence would not permit a King to write to a Prince to employ his Interest for dissolving a Parliament of England, without knowing himself engag'd in the greatest Confidence with him. Some, it may be, will imagine that this was only an ordinary Treaty. But *Coleman* has express'd himself so clearly in the case, that he has not left us room to mistake him. See what he writes to Father *la Chaise*: 'We have here a mighty work upon our hands, no less than the Conversion of three Kingdoms, and by that perhaps the subduing of a pestilent Heresy, which has domineer'd over a great part of the Northern World a long time. There were never such hopes of Success, since the Death of Queen *Mary*, as now in our days, when God has given us a Prince, who is become (may I say to a miracle) zealous of being the Author and Instrument of so glorious a Work. Pag. 118. Collect. of Letters. This was the grand Design carried on in 1675, which makes it evident that the Treaty made by the Dutchess of Orleans was not forgot, but that the same was inviolably observ'd and stuck to. Had we the other Letters of *Coleman* and Father *la Chaise*, as well as of the rest of the Agents of the English Court, which *Coleman* declar'd were still in Whitehall when he was examin'd, where the rest of these Letters were, it would be easy to judg, that matters have been still carried on in the same strain, between the Duke of York and the French King. There are Men enough that know, that a choice was made of the Letters that were to be published: they eclips'd and suppress'd those, wherein the Court and Duke of York were more particularly concern'd. But without putting our selves to the trouble of guessing, we have but too many Evidences, to leave us the least shadow of a doubt. Can we in England forget the things that pass'd at the time when the Popish Plot was discover'd by *Oates*, *Bedlow*, *Prance*, *Everard*, *Smith*, &c? Can we forget the indefatigable pains the Duke of York took, to turn the Conspiracy, in which he was so deeply concern'd, upon the Presbyterians, as appears from *Dangerfield's* Discovery, publish'd Anno Dom. 1678? Can we forego the Remembrance of those remarkable Events which happen'd soon after the Assassination of Sir *Edmondbury Godfrey*, the Sham put upon Mr. *Roderick Mansel*, the Depositions of *William Lewis* and *Laurence Moubay*; the Oaths of Secrecy, and the Litany of the Papists publish'd by *Robert Bolron*? Can we forget the Conspiracy of the Papists in Ireland, to subject that Kingdom to the French King, as long as we have before our eyes the Narrative of *Thomas Sampson*, printed 1680. and the Depositions of *Mac-namara*, *Fitzgerald*, and *Nash*, besides the Papers about the same Subject, sent in 1680. by the Duke of *Ormond* to the Court? All these Particulars appear'd so evident to the Parliaments of *Westminster* and *Oxford*, that they judg'd it impossible to reserve for the Duke of York any hopes of his Succession to the Crown; and that the Court Party, and Favourers

Favourers of the Duke would have thought themselves to have gain'd much, if the Duke, who was lookt upon as the Author of all these Intrigues, might only have retain'd the Title of King, with leaving the whole Administration of the Government to the Prince of Orange.

K. J. unconcern'd at the seizing of Orange.

We Englishmen, having since that been so good natur'd as to admit the Duke to the Crown, after the death of Charles II. whom the Papists had conspir'd to murder, on purpose to make place for the Duke: Let any one judg whether there be any likelihood he should have renounced his League with France, which he had always look'd upon as absolutely necessary for the making his Designs to bear, notwithstanding a publick Neutrality that was to be held with France, as he was Guarantee of the Treaty of Nimeguen. After all this a Man must have lost both Sense and Memory, to suppose that he broke this Treaty since his coming to the Crown. Moreover we have seen James II. an unconcern'd Spectator of Lewis XIV. seizing of Orange, and of the Desolation of his Son-in-Law's Subjects, who were forc'd to embrace the Romish Religion by the violence of Dragoons. All Europe have seen the Accommodation of the Business of Bantam suspended, without any other Reason, but the design of having a Pretence in reserve to break with the Hollanders; as also there were equal pains taken in 1670. to find out a plausible one to unite with France, and to ruin a State which endeavour'd to preserve the Liberty of Europe, and the Protestant Religion.

Government of Ireland given to the E. of Tyrconnel.

We have seen James II. affording the Algerines a free retreat into his Havens, and the Convoy of his Frigats, that they might safely carry away with them the Dutch and French Protestants they had taken between England and Holland. We have seen James II. take the Government of Ireland from the Earl of Clarendon, to put it into the hands of the Earl of Tyrconnel, to the end he might new model the Army, by putting out Protestants and supplying their places with Papists, as being more suted to carry on his Designs against England and Ireland. We have seen him send Prince George into Denmark, to hinder that Crown from joining with the Protestant Princes, and from quitting his Engagements with France, whose Assistance and Power were of absolute necessity to him.

Places of strength put into the hands of Papists. Standing Army. Popish Bishops.

And within his own Kingdom, what is it he hath not attempted to advance his Designs, and overthrow the Government, in conformity to his Treaty with France, and the Directions of Barillon his Ambassador? He has put all Places of Strength into the hands of Papists: He has kept on foot a numerous Army, to suppress all those who might oppose his Designs; he has, against Law, establish'd an High Commission-Court for Ecclesiastical Affairs, to violate the Rights of the Clergy and the Universities. He has introduc'd Popish Bishops into England: He has allow'd a free exercise of that Religion in all Places. All which things he durst never have undertaken so openly, and with so high a hand, had he not been supported with Hopes, deriv'd from the Treaty he had with Lewis XIV. whose Arms he lookt upon as able to bring about the Designs he had projected so long since.

It seems to me, that these Proceedings are an abundant proof, that he was engag'd in a League with France: But beyond all this, behold here another Argument, which cannot be gain-said.

D' Avaux owns a Private League.

The French Ambassador, the Count d' Avaux, was a publick Person at the Hague: he spoke, with order from the King his Master, and that in the Assembly of the States-General; he there peremptorily declares the 9th of September last, That there was an Alliance between the King his Master and James the Second; he makes use of this League to interpose himself by his Master's Command, upon an occasion, when Lewis XIV. believ'd, that the States were forming some Enterprize against James the Second. He delivers his Memorial to the States, and communicates it to the rest of the Ambassadors at the Hague, Sept. the 9th. The Memorial was conceiv'd in these Terms:

‘ THE sincere Desire the King my Master hath to maintain the Peace of Europe, will not permit his Majesty to be a Spectator of the great Preparations your High and Mighty Lordships are making by Land and Sea, without taking those Measures wherewith his Prudence, the inseparable Companion of all his Actions, doth inspire him, to prevent the Mischiefs which without doubt will be the Consequences of them.

‘ And tho the King be well assur'd of the Wisdom of your Councils, and that it is not to be imagin'd, that a Commonwealth should lightly betake themselves to Arms, and kindle a War, which at this Juncture cannot but prove fatal to all

‘ Christen-

‘ *Christendom*; yet his Majesty cannot believe, that your high and mighty Lordships would ever engage your selves in so great Expences, as well within as without your State, or suffer so many Foreign Troops to enter your Country, and in a Season so far spent put so numerous a Fleet to Sea, or prepare so vast a Warlike Train, in case they had not form’d a Design corresponding to the greatness of those Preparations.

‘ All these Circumstances, my Lords, and so many more which I must not here relate, persuade the King my Master, that these Preparations have an eye to *England*: And therefore the King my Master has charg’d me in his Name to declare, That the Engagements of Friendship and Alliance which he has with the King of *Great Britain*, will not only oblige him to succour him, but also to consider the first Act of Hostility your Ships or Land-Forces shall exert against his *Britannick* Majesty, as a manifest Breach of Peace, and open Rupture with his Crown.

‘ I leave it, my Lords, to the prudence of your high and mighty Lordships, to consider the Consequences of such-like Undertakings: And his Majesty has order’d me to make this Declaration to you in his Name, no otherwise than in the sincere Intention he has (as I have often had the Honour to declare to you) to prevent whatsoever might trouble the Peace of *Europe*.

Subscrib’d,

Done at the *Hague*,
Septemb. 9. 1688.

The Count d’ *Avaux*.

Than which, as it seems to me, nothing can be said more plain and express. What doth the *English* Ambassador hereupon? Some days after he presents a Memorial to the Estates, and this plainly in concert with the *French* Ambassador, because this his second Memorial did refer to that which the *French* Ambassador presented; and contents himself to assure them, that *James* the Second had no Treaty with *France* but what was made publick. See here the Memorial of the Marquis de *Albyville*.

‘ THE underwritten Envoy Extraordinary from the King of *Great Britain*, has receiv’d Order to represent to your Lordships, that altho his Majesty had believ’d, that what he had already declar’d to your Ambassador in *England*, and the Orders he had given to his said Envoy Extraordinary upon the same Subject, might have satisfy’d your Lordships, that there is no other Treaty between his Majesty and the most Christian King, than those that are publick and in print: Yet since a great deal of Artifice and Industry has been made use of to make the World believe, that the King his Master is enter’d into other Treaties and Alliances with the most Christian King; His Majesty, to shew the great regard he has to the Friendship and Alliances which are between him and your Lordships, and his desire to continue the same, has commanded the said Envoy Extraordinary, in his Name, to assure your Lordships, that there is no other Treaty between his Majesty and the most Christian King, than those that are publick and in print. And farther, that as his Majesty extremely desires the preservation of the Peace and Repose of *Christendom*, so he shall also be glad to take such Measures with your Lordships, as may be most convenient for maintaining the Peace of *Nimeguen*, and the Truce of twenty Years concluded in 1684.

Given at the *Hague* the Fifth of *October* 1688.

This Memorial pleasur’d the World with a fit of Laughter, to see it so contrary to the Memorial of the *French* Ambassador, notwithstanding he was very well acquainted with the Contents of the Memorial presented before by the Count de *Avaux*. But for all that, both the Marquis de *Albyville*, and those who had dictated the *French* Memorial, spake nothing but the Truth. The Marquis maintains, in the Name of the King, that there was no Treaty between *England* and *France*, but those that are in Print; the Count de *Avaux* asserts, that *Lewis* the Fourteenth is engag’d in an Alliance with *James* the Second, and both of them speak true. The Count de *Avaux* speaks with respect to the Treaty of 1670. betwixt *Charles* the Second and *Lewis* the Fourteenth, and supposes, as indeed it cannot be doubted, that the said Treaty has continued ever since, with design to destroy *England* and the Protestant Religion, which at first gave birth to the said League. He builds

upon this Principle, That the Duke of York, who was the great promoter of it, and who, whilst in that station, acted in conformity to the said Secret Treaty, had sufficiently ratify'd the same since his coming to the Crown; which Promotion of his was therefore so passionately desir'd, to the end he might more vigorously execute the said Treaty, which Charles the Second did not, for fear of troubling his own Repose.

Private
League be-
twixt Eng-
land and
France,
printed at
Paris,
1682.

The Marquis de Albyville, knowing that this Treaty had been printed at Paris 1682. in the History of the War of Holland by the Abbot Primi, but soon after suppress'd at the Instances of my Lord Preston, suppos'd he might say with a good Conscience, with respect to the self-same Treaty, That his Master had no Treaty with France but what was in print. So that the seeming Contradiction vanisheth, as soon as we consider the Persons that speak: The one is the Minister of Lewis XIV. who is not at all careful to husband the Interests of his Allies, and who thinks he may speak whatsoever pleases him, as he thinks he can compass whatsoever he wills, and accordingly declares the Truth with a great deal of frankness and liberty: The other is the Minister of James II. whom the Society of the Jesuits and their Maxims have model'd for disguising the Truth; and therefore dares not expose it, but under covert of an Equivocation; whereby, if he owns what is true, he reserves to himself always the Means, and the Right of denying it, when the owning of it might prove a Prejudice to him.

But not to make any further enlargement here upon the Jesuitical Character, of which the Marquis de Albyville had a competent share, without which Qualification he would scarcely have been made choice of for an Extraordinary Envoy: For my part, I cannot see how any thing could more evidently confirm the Truth, than the foresaid Memorial of the Count de Avaux, wherein he positively declares, that there was an Alliance between Lewis XIV. and James II. And I cannot see, how the most resolv'd Prejudice can object ought against this Proof, besides these three things which are equally ridiculous.

The first is, That King James II. is not bound to make good the Words of a French Ambassador, spoke at random.

More Ob-
jections re-
mov'd.

Secondly, That the Reason why the English Ambassador did not more punctually contradict the French Memorial, proves only at the most, That he was willing enough to see the *Hollanders* affrighted with the apprehension of this Secret Alliance between both those Kings, tho he did not think fitting to confirm the belief of that League, by the Memorial he presented to the States-General the 5th of October: whence it follows, That it may be there was no such League at all, notwithstanding the French Ambassador thought necessary to advance such a thing contrary to Truth.

The third is, That if the Marquis de Albyville were guilty of some Fault on this Occasion, it is not just to lay the blame of it upon his Master; and the rather, because he was never look'd upon as a very able and refin'd Minister.

But in answer to these;

Mr. Skel-
ton sent to
the Tower
for a blind.

Dissembla-
tion prac-
tis'd.

First, The World knows, that the Memorial of the French Ambassador was contriv'd at Paris, with the concurrence of Mr. Skelton, the Ambassador of James II. So that we cannot pretend that this Declaration was made by the French King, without the knowledg of the King of England. And tho Mr. Skelton, upon his return from France, was committed to the Tower for having had a hand in that Memorial, yet we know this was only a Pretext, being set at liberty a few days after, and made Colonel of a Regiment; and not long after returning thither, not as a Prisoner, but to be the Governor of it: All which makes it as clear as the Sun, that this was only a feigned Imprisonment, and not the Punishment of an unfaithful discharge of a Trust.

Secondly, I can no way conceive how any can imagine that the French King should take the liberty peremptorily to assert an Alliance, when there was nothing at all of it, only because he thought it was his Interest so to do; and that at the same time it was not permitted to James II. to dissemble, in a Case where such a Disimulation was of use to him. But I go further, and say, That to discover the Mystery of the affected dissimulation of the English Ambassador about the League with France, we need only examine the Behaviour of James II. after that Declaration of the French Ambassador to the States-General. If the French Ambassador, or the King his Master, had advanc'd an Untruth, in declaring that there was an Alliance between Lewis XIV. and James II. which could not be without an infraction of the Treaty of Nimeguen, of which the King of England was declar'd Guarantee; was it not of absolute necessity for King James to disavow that Untruth, as soon as he

was

was inform'd what had past at the *Hague*? Ought he not to have made reparation of the Fault the Marquis de *Albyville* had committed, by ordering him to explain himself fully about the false Supposal of the *French* Ambassador? Was it not visible, that his Honour was extremely concern'd in the Declaration of *France*; and that it was contrary to his Word given to the States-General, after his arrival to the Crown, and which he had so often since renew'd to their Ambassador in Ordinary? Was it not natural for him to express himself plainly, instead of suppressing the Fact, as it was done in the *English Gazette*, publish'd by the Authority of the Court, and review'd by his Ministers; where we find indeed the Memorial of the Marquis de *Albyville*, given into the States the 5th of *October*, but not a word of the Memorial of the Count de *Avaux* presented before? Who sees not that this his Silence, after the Declaration of the *French* Ambassador, is an evident and solid Conviction of the Truth of the League between him and *France*? For any one to answer the Objection, by saying, that King *James II.* did avow the thing openly, in his Answer to the Prince of *Orange's* Declaration, is to say nothing that may satisfy a Man of Reason. Every thing hath its Time; a Man that holds his peace, when he ought to speak in his own Justification, is presum'd to be convict of the Thing laid to his charge. It is a Maxim of the Civil Law, that to evident Presumption, Proofs must be oppos'd: Wherefore in this Case he was indispensibly oblig'd to deny the Fact whereof he was accus'd, and to refute it at that Time, and in those Circumstances; for that Opportunity being once let slip, his denying cannot be look'd on otherwise, than the Effect of Fears and extreme Necessity, which often obliges Men to disguise and deny the Truth. And surely if we only please to cast an Eye upon the Design he had of delivering *Portsmouth* to the *French*, and suffering several of their Regiments to take possession of it; which Affair took up much of the time of the Secret Council in *October* and *November* 1687. we cannot with any reason doubt of the Truth of this Secret League between *Lewis XIV.* and *James II.* The thing was not so secretly carry'd, but that the different Advices given thereupon, came to the knowledg of some, as well as the Names of the Authors of them, and the Reasons which hinder'd the King from following them in that Circumstance. The hopes which he had of getting a Parliament to his mind, that is, such an one as might overthrow the Laws of the Government, that was opposite to Popery and Tyranny, was the chief Reason, as is well known to many Persons of Quality, that hinder'd him from taking a Resolution to make us feel the Effects of that League, before it was declar'd in publick.

Strong Presumption.

Let us also cast an eye upon all the proceedings of *James II.* till his retiring to *France*, as well as upon those of *Lewis XIV.* in favour of him, and we shall find them all but so many Effects and Consequences of the Secret League. *Lewis XIV.* always influenc'd the Court of *England* in the Time of *Charles II.* during whose Reign (a) *England* could not but be sensible of the Effects of the Secret Treaty of 1670. by the War against the *Hollander*, by the frequent Dissolutions of her Parliaments; and at length saw the whole Mystery laid open in the Conspiracy of *Coleman*, Secretary to the Duke of *York*, who acted nothing without express Order of his Master. Since this, it is become notorious to all, that *Charles II.* who went under the Name of a Protestant, and who, notwithstanding his outward Profession, did, by Secret Treaties, design the overthrow of the Protestant Religion within his three Kingdoms, died a profest Papist: And after all this, cannot we persuade our selves to believe that *James II.* a declar'd Papist, who had a *Nuncio* to prompt him, and a *Jesuit* to counsel him, did confirm or renew a Treaty with *Lewis XIV.* for the destruction of the Protestant Religion in this Kingdom, especially when all his three Kingdoms are Witnesses, that for the advancing of Popery, he has neither had any regard to the Laws of the Land, nor to the Oaths he had taken to preserve them? Thus much I assert boldly, that since it cannot be deny'd, but that there was a Secret Treaty between *Lewis XIV.* and *James II.* we can less doubt but that the End and Aim of the Treaty was the Ruin of the Protestant Religion.

K. J. his going into France, a further proof of it.

I. We must needs conclude so from the Secret Treaty manag'd by the Dutcheſs of *K. Ch. II.* *Orleans*, between *Charles II.* and *Lewis XIV.* publish'd by Abbot *Primi*, in his History a favourer of the War with *Holland*, with the Privilege of the *French* King. This Treaty expressly tells us, the *French* King did promise *Charles II.* to subject the Parliament to him,

(a) Memorandum, about the Proposition made to the States by the *English* Ambassador, 1672.

and to re-establish the *Romish* Religion in his Kingdoms. We may easily guess whether these things could be accomplish'd any other way than by Force of Arms, that is, by the Violence and Cruelty of his Dragoons.

2. Who is so blind as not to see that *K. Charles II.* had ever since that Treaty cast about to furnish himself with Foreign Force, to enslave his Subjects to his Arbitrary Power? Those who find difficulty to believe this, need only to consider the Secret Treaty he had made with *Spain*, who was to furnish him with 8000 Men upon occasion; and it was to assure himself of their good Service, that *Charles II.* demanded Money of his Parliament in 1680.

3. Can we be so wilful, as not to trace the Current of the Design throughout all *Coleman's* Letters, which contain nothing else but the Conspiracy of the Jesuits and Duke of *York*, against the Government and the Protestant Religion?

4. After that *James II.* came to the Crown, notwithstanding the just Oppositions of the Commons in the *Westminster* and *Oxford* Parliaments, who easily foresaw all that since came to pass: Did not he give undoubted Evidence, that he still follow'd the same Measures, when after the Defeat of *Monmouth* he declar'd to the Parliament, that for time to come he would make use of Popish Officers, as well as keep an Army on foot, contrary to the Laws?

5. Have we not seen the whole bottom of his Designs unravel'd, by the care he took to fill that Army with *Irish* Papists, at the same time that he disbanded all the Protestant Army and Soldiers who serv'd him in *Ireland*, that he might always have an Army at hand in that Kingdom to invade *England*? It appears, beyond a possibility of doubting, that all these proceedings were only founded on the continuation of a Design, which could never be executed without a Secret League with *France*, and without a very express assurance of being vigorously supported from thence when the nick of Time should come. I do not here set down only Supposals and Guesses in the Air, when I assert that this League was to prove of most fatal Consequence to the Government and Protestant Religion. For, pray tell me what else can be supposed from a Union with *Lewis XIV.* when we have seen him, after having violated the Laws of his Kingdom, and the Oaths he had taken, exercising so outrageous and barbarous a Cruelty against his own Protestant Subjects, as well as against those of his Neighbours in *Piedmont*, and the Principality of *Orange*? Give me leave to make one other Reflection more, viz. That it is altogether incredible, if *James II.* had not been strictly leagu'd with *France*, by such a League as they were pleas'd to term *Sacred*, but that he must have acted after another manner in favour of the Prince of *Orange*, whose Subjects were oppress'd by the *French* King, and his Principality ravag'd, in order to the rooting out of the Protestant Religion there. His soft way of treating this Matter with the Court of *France* was so publick a Testimony of the Intelligence he held with *Lewis* about destroying the Protestant Religion, that we must of force conclude that *James II.* was conscious to a Treaty which was of greater concern to him, than all the Obligations of Blood or Alliance, which ought otherwise to have made him the Protector of the Prince of *Orange*, his Nephew and Son-in-Law, as being the Husband of the presumptive Heiress of the Kingdom. I only touch at these Points, and pass over many others that evince the same Truth. As for those affected Doubts which you tell me remain still in the Minds of some of your Friends; they seem to me to be of the nature of those that troubled the *Pharisees*, and of whom we say, that seeing they see and do not perceive, because they are resolv'd not to yield to the most clear and incontestable Truths. I bewail their Condition, who so wilfully blind and hoodwink themselves; and I wish they may never be undeceiv'd, if nothing less will do it than by the *French* King's sending over his booted Apostles with the Original of the League he has made with *James II.* into *England*, as he has already done into *Ireland*, of which I presume by this time neither Papist nor Protestant has the least doubt.

S I R, I am Yours.

A MEMO-

A MEMORIAL from the English PROTESTANTS,

To their Highnesses the

PRINCE and PRINCESS of ORANGE,

Concerning their Grievances, and the Birth of the
pretended Prince of Wales.

*First printed about
Novemb.
1688.*

IT cannot be unknown to Your Highnesses, that the Protestants of *England*, who are faithful to the Principles and Doctrines of their Religion, and to the just established legal Government, are in divers kinds most intolerably vexed and oppressed by the Popish Contrivances and Practices, covered with the pretences and name of Authority.

That * illegal things are daily imposed upon them, in their several Stations and Places, which they are convinced in their Consciences, can never be justified to God or the Kingdom, and yet they are pressed upon them (with-

Illegal Impositions.

* The Instances are too many to be recited, but some are these, viz. 1. Most of the Protestants are pressed to declare for a Repeal of all the Laws made for the Reformation of our Religion and its Settlement. 2. All the Subjects are forced to submit to serve and obey those that are no lawful Judges, Sheriffs, Justices of the Peace, Mayors, Lord-Lieutenants, and other Commanders; and all are threatened, vexed and prosecuted (as the Lord *Lovelace* now is) that dare say such have no lawful Authority. 3. All the Subjects are commanded to suffer all the Actions and Offences of their Lives, and the Secrets of their Hearts to be searched into, and their chief Interests and many of their Freeholds to be judged by the discretion of a few of the King's Creatures, called, his Commissioners for Ecclesiastical Affairs, whose Commission is, to proceed without and against the Rules of our Laws, with a *non obstante* to all other Laws; and every Man is required to assist their Arbitrary Powers on peril of their Censures, which extend to Imprisonment for Life. 4. All our Ministers are required, under grievous menaced Penalties, to be the King's Criers, to proclaim in the Churches the King's Power to suspend at once the force and use of all our Penal Laws made in 400 Years past to secure the Rights of the Crown, the Freedoms and Properties of the Realm, and the Profession of the Protestant Religion. 5. All the Protestants are forced by fear of the King's Wrath, to suffer the Rights of the Crown, and the Freedom of the Realm against Foreign Powers and Laws, to be publicly denied, and the force of Foreign Laws over them to be maintained; they are enjoined by the King to neglect their sworn Duties to God, to the Crown and Kingdom, of prosecuting at Law those Treasons which they see daily committed, for which no excuse can be made by pretence of Liberty of Conscience in Christ's Religion. 6. The

Constables and other Officers throughout the Realm are forced to quarter *Irish* and *Scots*, and other mercenary Soldiers in their Neighbours Houses against their Wills, in contempt of the ancient Laws and the express Words of the late Statutes. 7. All the Gentlemen and Freeholders are pressed to renounce their native and legal Freedom in their choice of Members for Parliament. 8. The Freemen of the Citys and Towns are urged to yield up to the King's Will the Tenure of their Magistracies, and all their free Customs and Privileges. 9. All the People are forced by fear of Punishments, to suffer a Child to be declared Heir apparent of the Crown, which ought not by the known Laws of the Kingdom to have been acknowledged, until lawful Witnesses of his Birth of the Queen had been duly published to the Kingdom, as was necessary in this case, wherein Publick Fame makes him a Counterfeit. Yet to their shame and grief, the People are forced to seem in their publick Prayers to present him to God as their Prince, and dare not ask who are the Witnesses of his Birth. 10. Many of their Juries are pressed to find their Neighbours Criminals, tho in their Consciences they think them Innocent, as is notorious (amongst many other Instances) in the case of those that made innocent Expressions of their Joy for the Justice that was done to the Seven Bishops: And many are forced to submit to be tried in matters about the loss of their Estates, by Fines and their Lives also, by Juries returned by secret Contrivances and Nominations, contrary to the direction of our Laws, being neither of the most sufficient nor most indifferent of the nearest Neighbours to the Facts in question, nor by Sheriffs sworn as the Laws require; whereby the course of the Kingdom's Justice is perverted, and the legal Government subverted. All these Instances are too well known to be denied by our Adversaries.

Instances of the same in several Particulars.

A Memorial to the Prince

out regard to their Consciences) by loss of their Offices and Employments, and many other threatned Effects of the King's Displeasure.

Illegal Prosecutions.

That many of their legal Liberties, Benefits, and Means of subsistence in their Churches and Colleges, are taken from them by mere Will and Pleasure (a); and Processes and Prosecution by Arbitrary Commissioners (b) are threatned and begun against great numbers of them, without their guilt of the least Offence, or Transgression against any of the Laws of this Realm.

Freedom of Elections hindred.

That they are debarred and spoiled of the due free (c) Election of their Magistrates and Officers in their Cities and Towns; and pretended Officers and Magistrates are imposed upon them, and turned out and put in at the King's absolute Will, as they are found ready to comply with and serve the Popish Design either ignorantly or corruptly.

Cities and Corporations deprived of their Liberties.

That several of the Bodies Politick of their Cities and Towns are declared to be dissolved at the King's Pleasure, to terrify and subjugate the Minds of all the rest; and the Citizens and Burgesses are thereby disfranchised (d) and divested of all their good Customs, Freedoms and Privileges, if they cannot in Conscience comply with Illegal Commands, and will not treacherously surrender their legal Rights and Privileges to the King's Will.

Illegal Commands.

That the legal Securities provided by the Kings and Kingdom in Parliament against the Dangers of their Religion and Liberties, are by the King's absolute Command thrown aside, and made (e) useless, by pretence of his Power to dispense with those penal Laws notwithstanding the Subjects Right in them, for the protection and safety of their Religion, Liberties, and Lives; whereby the very Foundation of all the Subjects Rights and Properties is undermined and shaken, and a new Claim set up and maintained; that the Subjects have no Right, Property, or Security against the Will and Pleasure of their Kings.

Dispensing Power set up.

That by colour of such a dispensing Power the trust of the Kingdom's Defence and Safety by military Powers, is put into such hands as are made (f) incapable of them by many express Laws of the Kings and Kingdom in Parliament; which justly give the Protestants sad apprehensions of imminent Dangers, seeing themselves put into the Power of those that publicly profess to be in Union and Communion with the Church of Rome, that openly declare themselves to be the mortal Enemies of all Protestants, and that they are bound upon peril of their Salvation to seek their Destruction, if they continue constant to the Protestant Profession.

Grievances by the Army.

That contrary to the express Laws of the (g) Realm lately declared in Parliament, an Army of Papists and Mercenaries is maintained, and dispersed through the Kingdom in full Peace, to the great disquiet and terror of the Protestants; and they are in divers ways constrained to receive these Soldiers into their Houses, to sojourn there against their Wills, whereby they are deprived of their

(a) *Viz.* The Case of the Lord Bishop of London suspended. Of Dr. Peachel, Vice-Chancellor of Cambridg, and Master of Pembroke-Hall, deprived. Of Dr. Hough, and 26 Fellows of Magdalen-College, Oxford, besides the Demyes, outed from their Freehold and Livelyhood, and decreed incapable of any other Preferment, only for keeping to the Law, the Statute of their College, and Oaths. The Suspension of near 200 Ministers in the County of Durham, for refusing to read to their People the King's Declaration for dispensing with our Laws, &c.

(b) *Viz.* The Summons of the Commissioners for Ecclesiastical Affairs to the Chancellors, Commissaries and Arch-deacons of the Diocesses, of most of the Bishops, to return the Names of all the Ministers that did not read the King's Declaration, wherein they transgressed no Law Ecclesiastical or Civil.

(c) The City of London and all the Cities and Towns Corporate of the Kingdom are sad Instances of this, the King alone setting up whom he pleases to have the Names, and use the Powers of their formerly chosen Magistrates.

(d) So the King hath done to the antient Cities of Oxford, Winchester, and the Borough of Totnefs; now threatens to do the same to the

great City of Norwich, or something tantamount, whereby he assumes to dispose of the Subjects legal Interests at his Will, as if they had no Property.

(e) The late Statutes of 25 and 30 of Car. 2. were made expressly for the Protestants Security; so were those of 5 El. 1. 13 El. 2. 23 El. 1. 27 El. 2. 1 Jac. 5 Jac. 1. and the Stat. 25 H. 8. 19, 20, 21. And many antient Stat. of Ed. 1. Ed. 2. Ed. 3. Ri. 2. and other Kings, were made to secure the People from the apprehensions of the Church of Rome; and the King hath declared that none of them shall at any time hereafter be put in execution.

(f) 'Tis known all the professed Papists are by the Stat. El. Jac. 1. and Car. 2. made incapable of holding any Trust or Powers in the Kingdom, and that the King hath placed the most of them in their hands.

(g) See the Pet. of Right, 3 Car. and the late Statutes Car. 2. that declare the dispersing of Soldiers into the Country, and the quartering them in the Subjects Houses, to be against the Laws and Customs of the Realm; and it is Demanded and Enacted as the Peoples Right, that they shall never be so burdened by Soldiers.

Peace

peace and Security in their Families, and of their Converse with their Neighbours and Friends, and of the Advantages they might make in their ways of living.

That the King hath barred and forbidden the execution of the Antient Laws of the Realm, against divers sorts of Treasons and other most heinous Crimes; and all the Statutes now known to have been made from age to age for 500 Years past, in relation to the Popes and Romish Priests (b) Powers and Practices, are suspended; tho the Experience of the Papists in all those Ages shewed those Powers and Practices to be so mischievous and dangerous, that they often complained in Parliament, they feared the (i) Destruction of the Kingdom by them.

Laws against Treasonable Designs not regarded.

His Majesty also so controuls the Courts of Law in the Course wherein Justice ought to be administred, that the Judges (tho they have highly served the Popish Designs) are turned out of their Places, Honors and Pensions, if they dare but suffer the Laws justly to acquit those whom the King would have condemned, as appears (amongst divers other Instances) by his late displacing Judg Holloway and Judg Powell, upon the legal Acquittal of the seven Bishops.

Justice stoppt.

We need not shew to your Highnesses more particular Instances of our Oppression, since 'tis notorious that there is a publick Attempt authorized by the King to subvert the very Foundation of the whole Civil legal Government of the Kingdom, that is, the Peoples free Election (in the customary established Course by Counties, Cities and Boroughs) of their Deputies to act and consent for them in Parliament to all Laws to be made and repealed.

More Instances of oppression.

The truly Noble Monarchy was founded on equal Freedom; and the Civil Government of England was always of right truly (k) free, because no Laws or Authorities ever bound the Persons and Properties of the Kingdom, save only those wherein the Kings and all the Subjects freely agreed; every Subject's free (l) consent being deem'd by our Laws to be given personally, as by his Deputies, to the enacting and repealing of every Law.

Fundamental Freedom.

Therefore the Statutes of old, in affirmance of the common Custom of England, declar'd that Elections should be free (m) from all interruptions and interpositions by the King or the Pope; and the Kings have bound themselves by the Statutes no way to disturb any Electors in making their free Elections.

No Commands, Promises, or Threats, no Prayers nor Solicitations ought to be made to the Electors by the King or Pope, or any others: the Peoples Deputies (say the Laws) are to be chosen Freely, and Indifferently, without pre-engagement of the Electors, or fear of displeasing the King, and without promises of Favour or Rewards to them. They are to be indifferent at the Time and Place of Election, and in such manner to proceed, notwithstanding any Request or Command to the contrary; otherwise the Elections are void and null.

Freedom of Elections asserted.

But we are not able to number the various kinds of Attempts and Practices to overturn this Foundation of our Government.

There have been infinite Endeavours and Artifices openly used to destroy the Customs, Privileges, Charters and Governments of all the Cities and Boroughs, by whom Four parts in Five of the Members of the Commons in Parliament are to be chosen by the Custom of England; and to bring all these Bodies Politick, and all their Magistrates and Officers to be dependent on the King's Will, and to be obliged as his Creatures (not the Cities and Towns Trustees) to serve his Popish and Arbitrary Designs, or to be turned out of their Places at his Pleasure; and such as are either Papists, or more ignorant and corrupt, put into their Places.

Endeavour's to subvert it.

'Tis known to all, that for this purpose, to destroy our Government under colour of Law, there have been causless Writs of Quo Warranto's brought by the King against most of the Cities and Boroughs of the Kingdom; those were se-

Quo Warranto's.

(b) See the King's Declaration for Liberty of Conscience, that suspends the Execution of all the Penal Laws whatsoever in matters Ecclesiastical, those that make it Treason to maintain the Pope's Powers and Canons to be above our Laws, or to take his Dispensation of Obedience to them.

(i) See the Statutes 35 Ed. 1. 25 Ed. 3. 27 Ed. 3. 16 Ri. 2. 5.

(k) See 24 H. 8. 12. 25 H. 21. 'Tis declared, that the Realm is free and subject to no Laws

but by their own consent, and that the King and Parliament, representing the whole State of the Realm, have the Power to dispense with the Laws as they shall see occasion.

(l) See the Statute 1 Jac. 1. 1.

(m) See Stat. Westm. 1. 3 Ed. 7. The common Law is there declared, and the King bindeth himself not to disturb any Electors to make free Elections. See Car. 2 Parl. See 7 H. 4. 15. 6 H. 6. 4. 9 H. 4. 8.

conded by Instruments appointed to terrify the Magistrates of the Cities and Towns with the King's severe Displeasure, if they dared to insist on their legal Right, and contest with the King at Law; to fright them with the intolerable charge, that their legal Defence would cost them more than they could bear; and boldly affirming, that they could not hope to maintain their Customs, Privileges and Charters against the King, since he was resolved to have them at his Command: then they tempted them with Promises of new Charters, if they would comply and surrender their Old Liberties into the King's Hands, and pretended that the Names of all who refused must be returned to the King's Attorney General.

'Tis no less known, that Judges were prepared to damn the Pleas of all such Cities and Towns as would stand upon their Right, and plead to the *Quo Warranto's*, as the Magistrates of *London* resolved to do, their Common-Council refusing to surrender their Liberties, notwithstanding all Commands, Terrors, and Intreaties used to them; they knew it was not in their Power to betray their City, nor in the King's Power to receive to himself those Customs, Powers and Privileges which the Great Charter and the Common Law had given them. But such Judges as would not judge that antient Body Politick (that had holden their Customs above 1000 Years) to be dissolved, were turned out; and all the Freedoms and Privileges due to the Citizens and their Heirs, and to the City and their Successors, were declared by the Judges to be forfeited; his now Majesty's Instruments thereby preparing his Way (under the shadow of the late King) to destroy the Government of all other Cities and Towns, by frightening them into Surrenders, or making a Precedent for Judgment against them: and it hath taken such Effect, that the Tenure of almost all those Bodies Politick is illegally changed, and the Cities and Towns brought to such a forlorn Estate, that they have no Magistrates or Officers but at the King's Will, and during his Pleasure.

As there is an actual subversion of the Freedom of the Government of the Cities and Towns, the Tenure of their Magistrates, and their free Customs being utterly destroyed, and those that now exercise the Magistracies therein being incapable to chuse freely and indifferently, and to return legally Members for Parliament; so there are continual attempts upon the personal Freedom and Indifferency of all the Electors for Parliament throughout the Kingdom.

His Majesty has personally solicited and attacked so many of them by his Smiles and Frowns in secret, to accept of such for their Deputies in Parliament as will comply with his Designs, that his Closeting (n) Electors is become a By-word amongst the People: He has made them consent to be barr'd of their Freedom in Electing for Parliament, and in voting therein if they be chosen, to be a Test of their Fitness to hold their Offices and Employments of Profit and Trust, and to have place in the Magistracy.

The Three Questions to that purpose are known to all, which his Majesty's Ministers required to be answered by the Justices of the Peace and all other Officers.

The Lord Lieutenants of all the Counties, by the King's special Command, have summoned the chief Officers and Gentlemen in his Majesties Name, to flatter or terrifie them out of the use of their Freedom in Electing for Parliament; and Marks of the King's Displeasure have been put upon those that resolved to keep their Freedom and Indifferency to elect worthy and fit Deputies according to their Judgments and Consciences.

An unheard-of sort of Commissioners as to their Qualities and Instructions, are lately sent from his Majesty throughout *England*, to Delude or Afright the Electors into a Choice of such Members for a Convention (to be called a Parliament) as will ingage to serve his Designs of abolishing all those Antient Laws and Tests that are the only Human Securities of the free Profession of our Religion, and the clearest Authoritative Declarations of the Rights of the Crown and Liberties of the People.

There need not be plainer Proofs, that the Ax is laid to the Root of our Civil Government, as the most certain way to introduce the Laws and Religion of *Rome*. Yet to convince the whole World in this matter, His Majesty has pub-

(n) Note, that the King's Practice of Closeting Members of Parliament, was the same as it's now for Electors.

lished a second (o) Declaration, wherein He has positively declared his Mind, that none ought to be imployed under Him in the Kingdom, who will not contribute to these his Designs, and chuse such Members of Parliament as may do their part to finish what He has begun. He has pronounc'd all that shall refuse it, to be neither good Christians nor Lovers of their Countries Wealth and Power; and He declares, that He has begun his intended form of Government futable to those Principles, having turn'd out by his absolute Will many Civil and Military Officers throughout the Kingdom in pursuance of this great Work.

This puts it out of dispute, that his Majesty thinks He ought not to suffer any Free Election for Parliament, whilst there are such numbers of faithful Protestants to contest for the Elections, who cannot in Conscience contribute to the Work He has begun; That is, upon pretence of Liberty of Conscience to allow his Majesty to surrender to the Pope the Rights and Freedom of the Crown and the Kingdom, or to acknowledg that the People of *England* ought by the Laws of GOD and CHRIST to be subjected to the Church of *Rome's* Laws and Jurisdctions in their Persons, and great part of their Estates; That the Pope and his Priests and Canonists should judg them by their Canons, in the lawfulness of their Marriages and Contracts, and legitimate or bastardize their Heirs as they please; That the disposal of their Goods and Chattels by their Last Wills, their Debts about Tythes, and their good Names and Bodies on pretence of Penances, should be in their Power and Will.

This is the Work begun by his Majesty, which dishonors and debases the *English* Imperial Crown, and subverts the native Freedom and the civil Properties and Interests of *English* Men.

Those are the proper Matters and Occasions of most of our Penal Laws in matters Ecclesiastical, to prevent the Fraud and Danger of holy Pretences for such unrighteous Attempts against our natural and civil Properties.

Our Penal Laws are to punish Offences against the Civil Government and Human Society; and tho they be about matters Ecclesiastical, the Subjects of *England* cannot pretend to be exempted from them, because of their Consciences, any otherwise than they may wickedly claim to be free from the Penal Laws against Felonies and Murders, if they shall plead that they rob'd or kill'd according to their Consciences. Use of Penal Laws.

His Majesty's avowed Intent and Endeavours are to free the Emissaries of *Rome's* Priests and Papists from the punishments and dangers of those our Penal Laws, against such manifest Attempts on the Freedom, Rights, and Properties of the Realm; that his new erected Popish Colleges, his Convents of Monks, his Four Provincial Bishops, and his numerous Priests, may be authorized by Him without force of Laws, to maintain the Church of *Rome's* Canons to be of greater Authority than the Laws of the Realm; to declare all the Power of Magistracy in Protestants Hands to be unlawful, and all Rights and Titles to their Estates forfeited to the Papists, by their being Protestants; to own and justify Dispensations from *Rome*, with their Obedience to all such Laws of the Realm, as the Pope and his Priests dislike, and professedly to hold Communion with the Church of *Rome*, the *French* King and all foreign Papists, that declare themselves mortal Enemies to the Religion and Power of the Protestants; to contrive with them the Suppression or Extirpation of them out of the Realm. Popish Priests, &c. dispensed from them.

This Work his Majesty hath so far begun, that he hath suspended and stop'd the Execution of the Penal Laws against all the High Crimes, some whereof the antient Papists of this Kingdom made Capital; and he declares all such Protestants as will not help to finish it, not to be qualify'd as Christians or *Englishmen* for any Imployment in the Kingdom, and therefore least of all to be Members of Parliament. Hereby his Majesty attempts to confine the Electors in their Choice to so small a Party, that he allows them not the choice of One in Forty whom our Laws make capable of being elected for Parliament; the Number is so small (professed Papists excepted) out of which his Will is to have Members of Parliament chosen, that our Laws will judg it no choice if he can impose his Will upon the Kingdom, as he hath declared it. Unqualified Persons imployed.

Hereby your Highnesses may be satisfied, that our case is deplorable; it seems not sufficient for our Popish Enemies to seek the Abolition of all our antient Penal

(o) See the King's Second Declaration for Liberty of Conscience, April 27. 1688.

Laws that are not agreeable to those new invented Doctrines and pernicious Practices of the present Church of *Rome*, which the Penal Statutes shew to have been abhorred by our antient *English* (p) Papists; but their design is to destroy the Constitution and Form of the Free Government of the Kingdom, from whence arose all those Penal Laws against their Churches proud Domination, and their Usurpation of the Rights of the Crown and the whole Realm.

*Practices
of the Po-
pish Clergy
in former
Ages.*

They know by our Histories and Records, that Free Parliaments always made Complaints from Age to Age against their pernicious Claims of Power over our Kings, our Laws, our Courts of Judicature, and their Judgments, and against their Exactions, Impositions, Frauds, and Delusions of the People, with their Superstitious Folly, whereby they gained a (q) third of the Revenues of *England*, and drew so much Money to *Rome* that they impoverished and almost ruined the Kingdom.

They are sensible that they have been able to inflame to the Pope and Priests several of the greatest *English* Kings, that they could prevail with the King for Licences and Pardons to them to transgress the Laws that the Parliament made to preserve the Subjects Rights and Properties; and that the Parliament only caused new Laws to be made for declaring such (r) Licences, Dispensations, and Pardons of the Kings void and null.

They know that they have perswaded several of the Kings that the Pope could absolve their Conscience from all obligation by the Laws, and from Agreements, Promises, and Oaths to their Kingdom (s), to maintain their great Charters and all their Laws and Liberties; and that they prevailed upon one of them to resign the (t) Kingdom intirely to the Pope, and to hold it of him by Rent: and they understand that the People in free Parliament only made and declared all such Dispensations and Resignations void and null, and justly required those Kings to renew their Oaths to the Kingdom to preserve their Liberties; and scorned with indignation the Pope's demands (v) of his pretended Rent for the Kingdom, declaring that their Kings had no such Patrimonial Right in the Kingdom as to subject it to any Powers on Earth.

They cannot hope that a freely chosen Representative of this Kingdom can suffer such a delusion to be put upon them, to be perswaded that due Christian Liberty of Conscience requires them either to allow the foreign *Romish* Laws or Canons to contest for power and place with the Laws of *England*, or to suffer any of the Subjects of *England* openly to profess themselves, their Persons, Marriages, or Estates to be subject to any Foreigners Jurisdiction, and to depend on their Authority, Offices, and Sanctions, and the exercise of them, for their Eternal Salvation (which is in truth to renounce their subjection to *England*) or to own and avow to have the nearest Union and Communion with Foreigners, that openly profess themselves mortal Enemies to more than a hundred to one of the whole Realm, and to be bound in Conscience to seek their suppression or destruction.

They cannot think that a free *English* Parliament should not always know, that no Doctrines of *Jesus Christ* ever destroyed or changed the natural and civil right of any Person or Nation, or allowed that any Part of the People of a free Country should correspond with or depend upon the declared Enemy of the far greatest part of it: they have therefore resolved to overturn the very Foundation of our Civil Government, the Peoples free choice of their Deputies for Parliament, that there may never be a free Parliament more in the Kingdom, which is a Plot much worse than their Gun-powder Treason.

It seems they think it safest to keep a shadow of Elections for their intended Convention, by forming Bodies Politick of Cities and Towns, to name or return whom the King pleases; and by the specious name of Liberty of Conscience, with promises of Favours and threats of Displeasure, to deceive or afright the other Electors to accept of those for their Deputies that the King shall offer. But if this attempt upon the Prime Fundamental of our whole Civil Government shall be suffered, the King may hereafter with as much Justice, Law, and Reason,

(p) See the grievous complaints of the Commons in 25 Ed. 3. 4. *Provisors*, and 6 Ric. 2. 5. 27 Ed.

3.

(q) See the Parliament Roll 4 H. 4. 1 H. 5.

(r) See the St. 3 H. 5. St. 4. 7 H. 4. 8.

(s) So the Pope absolved H. 3. and Ed. 1. from

their Oath to keep the great Charter.

(t) King *John*.

(v) See the Roll Parl. 40 Ed. 3. num. 8. Rot. Claus. 3. Ed. 1. calling K. *John's* Charter and Grant to the Pope a most unjust and forceless Charter; since burnt.

call whom he pleaseth from any parts of the Kingdom to consult with, and in the Name and under Pretence of their Advice, change our Laws and Customs, impose Taxes, and alter at his Pleasure the (w) Succession of the Crown.

We must with sorrow shew your Highnesses that they have so far prosecuted this their Design against our Government, as to render it impossible to have a Legal Free Parliament elected and returned in the present State of the Cities and Boroughs, the Sheriffs and Officers, and the condition of the Electors; great Numbers of them being quite bar'd of their Freedom and Indifferency to elect, which our Law requires, by the declared Displeasure of the King, and the threatned and certain loss of their Offices and Employments and Benefits, if they accept not of such for their Trustees as have unworthily resolved or promised to vote against our establish'd Laws as the King will have them, without hearing the Reason about them by the Kingdom in Parliament, and, as we believe, without knowing the Intent and Purpose of the Laws they promise to abrogate.

Illegal Elections of Parliament Men.

'Tis not now practicable to have the Legal free Consent of the Kingdom to the making or repealing of any Laws (without which they cannot be obligatory) until there be a just Restoration of the Customs and Liberties of the Cities and Boroughs, which have been illegally and treacherously surrendred, or unduly wrested from them, and legal Magistrates shall be duly chosen to execute Writs for Elections and make Returns; until there be a Revocation of the King's terrifying Declaration of the unfitness for Parliament and publick Employments in all that will not help to finish his great Work begun, of destroying all our Penal Laws for preventing the Popish Practices against the Rights of the Crown, and the Realm: Nor until there be an absolute Renunciation of all the Promises, Ingagements and Subscriptions of the Electors for Parliament taken by his Majesty's Orders and Ministers, to restrain their Freedom and Indifferency in their Elections. Thus the Cunning and Malice of our Popish Adversaries have cut off all our Legal Means of relief by the Free Common Councils of the Kingdom, whilst they lay close Siege to take our Bodies and Souls captive.

Surrenders of Charters.

We need not remember your Highnesses, that these Attempts and Endeavours to subvert our Liberty in our Religion and Government, is a part of that general Design formed and concluded on many years since in the most Secret Councils of the Popish Princes, chiefly managed by the Jesuits, to root out of all Europe the Profession of the Protestant Reform'd Religion and the Peoples Liberties.

Several Instances of Arbitrariness.

We will not mention the notorious actual Prosecutions of that Popish Resolution in several Kingdoms and (x) Dominions, nor the treacherous Falseness of those Princes in their Treaties, Agreements and Oaths, nor the Oppressions and Bloodshed, and all kinds of unrighteousness that have been practised by them in order to that general great Design.

The instance alone of the French King is enough to be named instead of all, because he has owned and published to the whole World his part in that Design: and by comparing the Violences, Banishments, and Murders done upon the Protestants at the same time by other Popish Princes (as they were able) with his publick Confessions of his long-laid Design, we may make a true Judgment of the whole.

The French King's Oppressions.

The French King by his Edict of 1685, (which ought to be read by every true Protestant) hath declared, that he entred into that Design from his coming to the Crown; and it appears by the Edict (z) then prepared, and agreed by his Council of Conscience, that all his renewed Edicts in the Protestants Favour, his acknowledging and registering in Parliament their great Services for him, and his advancing of many of them to the highest Dignities Military and Civil in his Kingdom, were done to flatter and deceive them: he calls God to be Witness of his Designs and Resolutions at that time to abolish their Religion by degrees, and that he only attended his fit opportunity for that great Work, as it's called by our King and by that Edict.

His design to destroy the Protestants.

(w) Note, that Cromwel took upon him such a power to send for men by his Letters without Election, and called them a Parliament, and made Acts, and intended to have changed the Succession of the Crown to his own Family, if those his Creatures could have agreed with him.

(x) That is in France, the Dukedom of Savoy,

the Kingdom of Poland, and many others.

(z) 'Tis fit to see in that Edict, prepared as it's published, the opinion they have of Protestants, That they are deemed incapable of having any right to claim the benefit of the Treaties, Promises or Oaths made to them by the Papists.

In that interim of his seeming kindness to the Protestants, and solemn professions to them and some of the Protestant Princes, for the observing faithfully the Law and Edict of *Nants*, which was the *French* Protestants great Charter; there were all possible secret Contrivances and Practices to prepare for that great Work, especially in *England*, that hath long been the Head of the *Reformed Religion*, and the chief Terror of the *French* King and the Popish World: he shew'd his fear of the People of *England* when he barbarously banished his now Majesty and the late King in their distress, rather than displease *Cromwel*; he therefore applyed his principal Councils and Endeavours to distract and weaken the Protestants of *England*, and to perswade and assist the late King covertly to increase and strengthen the Popish Party: for that end his dearest Confessor the Jesuit *le Chaise* was ordered to correspond with Mr. *Coleman*, then Secretary to his now Majesty; and the (a) Letters confessed by him before thousands, shewed that the Matter proposed, was to root out of the World the Protestant Religion under the name of the *Northern Heresie*. And ten times more of the Particulars of that wretched Design had appear'd, if all Mr. *Coleman*'s latest Letters for two Years and a half that were brought to *Whitehall*, and many culled out of the rest, had not been there suppressed and kept from the sight of the Parliament; yet Mr. *Coleman* on his Trial confidently avowed before all the People that Design of subverting the Protestant Religion, and that he was only a subordinate Minister in it.

Ch. II. a
Pensioner
to him.

It appears by those Letters, that the *French* King's Mony was to manage that Work; and the Letters brought into Parliament by the now Lord *Mountague*, acknowledged by the late King to be written by his Order, prove to the World that the late King was content to become the *French* King's Pensioner for Five hundred thousand Pound *per annum* to keep off the meeting of Parliaments: we had then discovered the Increase of Popery, and the danger of the Protestant Religion, and had thereupon formed the Parliament's Test, and were preparing other Laws for security against the Popish Designs.

It hath also been manifest to the World, that all kind of Artifices that the Jesuits Councils could invent, were about the same Years used to pervert the Faith and Religion of the United Provinces, or to betray them into the *French* King's Power, or at least a dependence upon him.

P. of O's
Firmness to
the Prote-
stant Inter-
est.

'Tis now notorious to the World, that an Agreement was made between the *French* King and his late Majesty of *England*, to subdue and divide those Provinces, that they might no more be either a Support or Refuge for the Protestants. We crave pardon for our boldness, that we humbly appeal to your Highness, whether your Integrity and Constancy in the Protestant Religion, and your Fidelity to your Country's Freedom, were not about those Years vainly attack'd by those two Kings, or at least by one of them; and whether the Piety, Generosity, and brave Scorn and Indignation expressed at their Proposals, did not fix an Enmity in their Hearts against you, the Effects whereof you have suffered ever since.

The World hath also seen the Effects of the *French* King's prosecution of the same Design to take away the Support of the Protestant Interest, by his Pensions to the chief Men of the Kingdom of *Sweden*, and to such as he could prevail with in the Court of *Brandenburgh*, and all other Princes Courts that adhere to the Protestant Interest.

Yet his chief Expence was upon our late King and his Ministers and Counsellors, who concurred in all the secret Practices and Contrivances to weaken the Power of the Protestants, and to suffer the Greatness, Glory, and Terror of the *French* King to be advanced; but he durst never openly and avowedly join with him in the great Work against the Protestant Religion, for fear of his Protestant Subjects, he having deluded them with so many solemn Protestations of his Faithfulness to their Religion and their Liberty.

Parlia-
ments a
hindrance
to the Fr.
Designs.

The *French* King found by experience, that the Parliaments had prevail'd with our King to break all the Measures they had taken together for the destruction of the United Provinces, by obliging him to a Separate Peace with them, which had forced him to let fall his then spreading Plumes, and in crafty ways to seek and sollicit a Truce; and therefore he durst not during our King's Life put in exe-

(a) See *Coleman*'s Letters in print, published by the Parliament's Command.

cution his great Work, which he declares had been so long in his Heart, by Torments, Murders, and all sorts of barbarous Cruelties, to suppress the Professors and Profession of the Reformed Religion, and intirely to raze and expunge the Memory of it, as his Edicts and Practices now declare to be his Intentions.

The *French* King durst not throw off his Disguise, and shew himself like a ravening Wolf to his Protestant Subjects, till our now King had publickly espoused the Popish Design, which he had together with him long prosecuted in the dark; and until he had begun to invade the Protestant Liberties and Securities, putting the Military Powers in Popish Hands, and to demand the Parliament's Consent to a Law (which they refused) to authorize him to make his Papists the Guardians of the Protestants Religion and Lives.

Fr. K. in-
courag'd by
K.'s turn-
ing Papist.

The *French* King knew then that the People of *England* were in no capacity to interpose in behalf of his Protestant Subjects, however he should destroy them; and as his Edict says, being by the Truce without fear of disturbance, he intirely apply'd himself to the great Design; he sent his Dragoons to destroy the poor Protestants Goods, and to torment their Bodies with more cruelty and inhumanity than was ever practised since the Creation; he resolved for his Glory (as his Clergy told him) to shew himself the first and most Illustrious of the Churches Children, and the extirpator of the Protestant Heresy, which they told him was a more solid and immortal Title than he acquir'd by all his Triumphs.

Fr. King's
Practices.

He then prosecuted that Work of Extirpation, as *Saul* did, to strange Countries, breathing out Threatnings and Slaughter; he sent to the Duke of *Savoy*, and as that Court complains, perswaded and frighted that Prince into a most unchristian and bloody Decree, to compel the most antient Protestants in the Valleys of *Piedmont* to turn Papists forthwith; and they being faithful to their Religion, that Edict was pursued by the help of his Dragoons, and the harmless Protestants tormented and murdered more cruelly than the worst of (b) Vermine or Serpents, until they were utterly destroy'd, and their Country given to the Papists. That Court of *Savoy* seems still (c) ashamed of that horrid Wickedness, and says for their Excuse, That the *French* King declared he would root out those Protestants by his own Force, and possess the Country, if the Duke would not have assisted therein.

The suppression of the Protestants of *England* hath been always esteemed the principal part of the Popish Design to extirpate the Protestant Religion; and therefore all the Romish Councils, Policies and Industries, their Conspiracies, Poisonings, and Massacres, have been long employed about it, and have perfectly gained our now King to serve their Designs; they have united him with the *French* King, that their conjoined Councils, Treasures and Strength, may finish their Work of bringing *England* to the Obedience of their Church. It's many ways evident, that both the Kings are under the like Conduct; and our King proceeds in the same Methods against us, wherein the *French* King hath been successful to destroy the Protestants of his Kingdom. His first Attempt is to subvert our Civil Government and Laws, and the Freedom and Being of our Parliaments; just as the *French* King first invaded the Supreme Legal Authority of *France*, which was vested in the Assembly of Estates, from whom alone he now derives his Crown. Our King in imitation of his Brother of *France*, strives to bring all the Offices and Magistracy of the Kingdom, that were legally of the Peoples Choice, to be solely and immediately depending on his Absolute Will for their Being, whether they arise by our Common Law, or be instituted by Statutes or Charters. He endeavours by various Artifices to bring the disposal of all the Properties and Estates of the People, and their Lives and Liberties, to be at his mere Will, by a perversion of the instituted course of our Juries, and by Judges and a Chancellor fit for that purpose, and every moment depending on his Will; he seeks to make his Proclamations and Declarations to have as much power over our Laws, as the *French* King's Edicts. And after his Example he establishes a mercenary Army to master and subdue the People to his Will.

United De-
signs a-
gainst the
English
Prote-
stants.

If he can prevail in these things to overturn the Civil Government, then the Liberty of the Protestant Profession, and of Conscience in all Forms, however

(b) See the Relation of it printed.

(c) See Dr. Burnet's Letter from his personal Inquiry.

seemingly settled by him, will be precarious; and he may as easily destroy it as the *French* King has abolished the irrevocable Edicts, Treaties or Laws of his Kingdom, confirmed by his Oath, which were as good Security to those Protestants as any *Magna Charta* that our King can make for us, or any Act of a Convention with the name of a Parliament, which is possible for him to hold in the State to which he has reduced the Kingdom.

Our King hath the same *French* Copy by which he writ, assuring the Protestants of Grace and Clemency, giving them Promises of equal Liberty of Conscience with his Papists, in preferring to Offices and Employments those whom he resolves to suppress and ruin, preventing the execution of Laws, and in allowing Liberty of Conscience in some Notions, and the outward Forms of Worship in the Christian Religion; provided always they have no regard or conscience for the Substance of Christ's Religion in Justice and Righteousness, nor stumble at the complying with or assisting him in the highest Crimes against Jesus Christ, by invading the Rights and Liberties of the Kingdom, and assuming a forcible Domination to oppress whom he pleases; which is a subversion of the very Foundation of Justice and Love amongst Men, and by consequence of the Religion preached and established by Christ.

These Matters of Fact are self-evident, and clearly shew that our grievous Oppressions by our King are the Effects of the united Councils of the Popish Interest, whereof the *French* King is the Chief. That the Conspiracy against the true Religion and Liberties that now appears in *England*, comprizes all the Protestant Princes and States in *Europe*; *England* is only first attacked as the principal Fortress of the Protestant Profession: If the three Kingdoms of *England*, *Scotland*, and *Ireland* can be reduced into the Pattern of the *French* King in Government and Religion, and the Strength of them be united against any single Protestant State or Prince they shall think fit to assault; if they can by Artifices keep the rest divided, which will not be hard for them; there is little hope of any long defence of such a State.

The *French* King seems not unwilling to have it known, that the Popish Design is general against all Profession of the Protestant Religion, tho especially against *England*: He hath allowed the Bishop of *Cosnaes* Speech to him at *Versailles* in 1685 to be published, who was authorized to be the Mouth of the Clergy of that Kingdom; he magnifies the King for suppressing the Protestants of his own Kingdom, and asks what they may not yet expect: "*England*, saith he, is just offering to your Majesty one of the most glorious Occasions you can desire; the King of *England* by the need which he will have of Succour, and of the Support of your Arms, to maintain him in the Catholick Faith, will make you quickly find occasion to give a Protection worthy of your self. We know very well, before the *French* Clergy declared it by that Bishop, that the same Head that contrived the perversion or destruction of so many Millions of the Protestants in that Kingdom, designed the ruin of the *English* Religion and Liberty: But it surprized us to see that Speech published by the *French* King's Authority, and that our King should suffer the Translation of it to pass freely in *England* and thorow the World. We thought it beneath the Majesty of a King of *England* to be content that his Subjects should be told, that he was to come under the Protection of a King of *France*, over whose Kings and Kingdom his Ancestors had so often triumph'd; but it seems nothing is to be esteemed inglorious that may serve the general Popish Design of extirpating the Protestant Profession.

We need not put your Highnesses in mind, that the same Speech acknowledges that the Popish Counsels, and Conspiracy against *England*, intend the like ruin to the Religion and Freedom of the *United Provinces*. That Bishop tells the King, that he hath undertook the Conquest of new Countries, there to re-establish the Prelacy, the Religious Worship and the Altars: That *Holland* and *Germany* have been the Theater of his Victories, only that Christ might triumph there, that is, that the Papists might trample upon the Protestants and their Religion; and this he speaks (as he says) in the very Spirit of the Church, and signifies their hopes of success against the poor Protestants to be unbounded, saying, What may we not yet expect?

We must freely confess, we were too slow to believe this desperate Popish Plot against the whole Protestant Profession; and in our particular Case we have been deluded with our King's Promises to protect and maintain our Religion, our Laws and Government, until we saw them all undermined, and the Train laid to blow them

them up by a pack'd Convention of Men preingaged, perverted or corrupted to serve the King's Will and Designs, that shall assume the name of a Parliament: We were not utterly insensible of the danger of our Liberty in our Religion, and our Government, from the time his now Majesty declared his late Majesty to have been a Papist; but we saw that by their secret conjoined Councils they had not been able to prevent making some Laws to secure the Protestants by excluding Papists from our Parliaments, and all Offices and Employments; and we hoped that our King's Life would not be sufficient to overturn by degrees (as they had begun to proceed) the excellent Foundations of our Civil Government, nor to extinguish the clear Light of the Truths of Christ professed in our Religion; and we were assured that your Highnesses minds were clearly enlighten'd in the Doctrines of the Protestant Religion, and adorned and accomplished with all Christian and Royal Vertues fit to possess the highest Throne.

Thereupon we encouraged each other to suffer with patience his Majesty's Attempts against our Laws and Liberties, presuming that your Highnesses would ere long be our joyful Deliverers, to the everlasting Confusion of the Popish Designs against our Government and Religion, and to the vindication of the Innocency of the Protestant Martyrs in all the Kingdoms of Europe.

But as your Highnesses were the greatest Objects of our earthly Hopes, so the thoughts of her Royal Highnesses succession to the Crown, in conjunction with your Highnesses Vertues and Military Prowess and Magnanimity, were matters of the greatest horror and dread to all the Popish Councils of Europe. They have therefore applied themselves to various Consultations; sometimes it has been proposed, by his Majesty's Power with a Parliament, thro the deluding Names of *Liberty of Conscience* and a *Magna Charta* therein, to fetter your Highness in your accession to the Crown, with such Conditions as were obtained in Parliament in the Cases of Queen *Mary* and *Elizabeth*, which they hoped to strengthen by his Majesty's putting the Papists into possession of all the Strength and Authority of the Kingdom, united with all the Power of the *French* King, that your quiet admission to the Throne might not be possible, unless you should submit to, and depend upon the Papists, and the Conditions they should impose. But they found it of greater difficulty than at first imagined, to get a Parliament that would join with his Majesty in such a Project against your Highnesses. Therefore some of the more cautious Papists, of considerable Fortunes, stumbled at the absolute Force of a Mercenary Army, and the *French* Power, to put a Force upon the Heiress of the Crown; they propounded, that his Majesty should rather try the Force of his Paternal Power with her Royal Highness, and use all the Arguments of Interest to induce her either to change her Sentiments in her Religion, or at least to moderate her Thoughts concerning them, and incline her to concur in their full Liberty.

Methods to make Parliaments favorable to Popery.

If such Endeavours should be hopeless, that then your Highnesses should be at least prevailed with to declare your Consent to his Majesty's Declaration for Liberty of Conscience, and your concurrence in his desires to a Parliament for the repeal of all the Penal Laws in matters Ecclesiastical, and the Test.

It was presumed, That You might have been perswaded, that the Laws suspended and dispensed with by his Majesty were only two or three Laws against the Protestant Dissenters holding their Conventicles, and some Laws made since the Reformation, only to compel Papists by great Penalties to come to Church, and to keep their Priests out of the Kingdom; and it was hoped that your Highnesses Compassion to all Christians, and a tenderness for Liberty of Conscience, would have moved you, without further Examination, to have complied with his Majesty's Request.

Attempts to make the Prince and Princess of Orange favorable to Popery.

It was believed your Highnesses would never have inquired after the Penal Laws in matters Ecclesiastical, made by the antient Papists many hundred years since, against the horrid Invasions by the Romish Church on the Rights of the Crown and the Realm, whereby they had impoverished, enslaved, and almost ruined the Kingdom; nor that your Highnesses would have understood that the King has opened a return to all those wicked practices of that Popish Church, and that the repeal of those Laws would settle them.

It was supposed that You had not known that the Penal Laws in matters Ecclesiastical contain most of the clearest authoritative Declarations extant in any Records of the Rights of the *English* Crown, of the Form and Constitution of our Government, and of the Rights and Liberties of the Subject; the Church of

Rome's Claims, Usurpation, and intolerable Abuses and Oppressions having put a necessity upon the Kings and Parliaments to make those Declarations of Law that are now antient Evidences of the Inheritances of the Kings and People, of inestimable value.

It was imagined, That your Highnesses would not have discerned the Consequences of a general Repeal of the penal Laws in matters Ecclesiastical; that enacting only his Majesty's Declaration (as he propounds there) would be the most absolute and compleat Establishment of Popery that the *Romish* Church can wish. All the Canons or Laws of the Church of *Rome* shall then have greater legal Force in *England*, than they have had in five hundred years past; and all her Authorities and Jurisdictions over our Persons and Estates, will be in the same manner legal by antient Usage, and approved by Parliament, as ever they were heretofore in *England*; part of *Magna Charta* it self will be repealed, that makes it penal to such as the Priest shall delude to give their Lands to religious Houses.

There was such a confidence of deceiving your Highnesses, and obtaining your Consent to the repeal of the penal Laws, that the Priests spread a Rumour that you had agreed, and that his Majesty understood you well therein: A false Jesuit had the impudence to whisper it as a Secret, that their general Design could not miscarry, seeing they were secretly assured that the Prince of *Orange* would concur in it when it was seasonable to declare himself.

We were certain of the falseness of those Rumors, some of us knowing of Applications contrived by his Majesty's Order to your Highnesses in that Matter; and we were much surpriz'd when a Friend of ours at *Whitehall* told one of us about the end of *August* last, that the Rumors of your Highnesses concurring with his Majesty were suddenly hush'd, and that he heard a Whisper that it was said with much anger, that your Highnesses were obstinate in your Errors, and thought to make your selves popular with the Church of *England*, and he would trouble himself no more with you, but you should repent it.

Some few of us, who had often Conferences, concluded that the King had changed his Measures, but could not imagin what was designed to offer to a Parliament in lieu of a Protestant Successor's Consent, to oblige them to repeal the penal Laws desired by his Majesty. It was not long before we heard it muttered, that the Queen was with Child, and then the Papists began to triumph, and the Priests gave out boldly, that it would set aside her Royal Highnesses Right to the Succession, tho it were a Daughter; and ignorantly and impudently affirmed, that if the Queen had a Daughter born after the King came to the Crown, it ought to succeed before a Daughter born when he was only a Duke. But none except Papists gave credit to the Reports that she was with Child; and the Fable of the Dutches of *Modena's* Request in Heaven or Purgatory, and the Lady of *Loretto's* helping her to conceive a Son for the sake of a fine Present, made all, save the Papists, believe it a mere Invention of the Priests, whatever should ensue.

The Story of it shewed it to be of the Lineage of the Popish Legends, and was a matter of Laughter and Derision among the People, and a subject for Poets Lampoons, which were so common that they were in *Whitehall* it self; and no doubt they came to the knowledg of his Majesty and most of his Court. The more serious Protestants presently apprehended, that a supposititious Son was designed to abate your Highnesses growing Reputation and Power; all the Protestants of *Europe* then justly looking upon her Royal Highness as Heiress apparent to the English Crown, and your Highness in all respects to be the fittest Head for the Protestant Interest against the general Popish Design.

They knew this Device to be necessary for supporting the Glory and Terror of the *French* King, against the greatning Reputation of your Highnesses by the Expectancy of the *English* Crown; 'tis known that he dreads your Highnesses Vindication, and recovery of your own Rights from his manifest Violence and Rapine, and your Patronage of the Protestant Interest in all *Europe*, against his arbitrary and bloody Designs.

He knows that if her Royal Highness succeeds to the Crown of *England*, he will be quickly incapable of prosecuting his cruel Intentions against the Protestants of other Countries, and it may be scarce capable of supporting his Grandure and Triumph over his miserable Subjects.

The very Expectation for 8 or 9 Months that the Queen might bring forth a Son, was greatly for the Popish advantage, if the trick should have failed in the Issue of any unlucky accident: it made a stand for a time of the Protestants of all Countries in the great Expectations from Your Highnesses; it raised Triumphant hopes in all Popish Countries; it strengthened the *English* Papists hands and hearts to prosecute their design vigorously; it encouraged corrupt and time-serving Protestants in Profession to fall in with their Party, and prevailed with many weak Dissenters to make them believe a Succession of Popish Princes, and that their Liberty of Conscience is only to be expected from them, and that therefore they ought to serve in their Employments.

Hopes of
establishing
it by the
birth of the
Prince of
Wales.

When we saw the Incredulity and Mockery of the Multitude at the story of the Queen's great Belly, and the sad apprehensions of the more Considerate, that for the politick support of the Popish Design a counterfeit Son of the King's might be imposed on the Kingdom, we resolved to observe and keep memorials of the Rise, Progress and Issue of the whole matter (as far as we could get intelligence.) We presently perceived that the Popish Priests were the prime reporters and most confident Asserters of the undoubted truth of the matter; and they boldly took upon them to presage, that the Queen was with Child of a Boy, that was to finish the settlement of their Church in *England*, as certainly as if they had seen the *Fetus* perfectly formed in her Womb, or rather as if they had been privy to the Plot of a Supposititious Boy, and had their Cue in the Management of it.

Their manner of talk and boasting increased the general suspicion; we knew that sort of Priests maintained the vilest wickednesses to be lawful for their Church's service, and that they have been notorious for Impostures and Forgeries of all sorts; they once forged an Eternal Gospel (as they called it) to support the Orders of the Mendicant Fryers; and if we may believe some of themselves, they have a Father Titular in some rich Convents to forge Titles to any man's Land adjoining to theirs when the Convents have a mind to them: those Priests contrived Queen *Mary's* great Belly for a counterfeit Heir to the Crown, to have carried on their Catholick Cause; and as great publick Triumph and solemn Prayers for her Belly were made at *Rome*, and in all Popish Countries, as have been made in our Queen's Case: but their design was unluckily crossed when her Deliverance was expected, and their Joys and Prayers vanished in smoke.

Some of those Priests were the Agents for the bloody and unnatural Usurpation of our King *Richard* the Third. A Priest preached at *St. Pauls* Cross to make the People believe that King *Edw. 4.* his elder Brother, whose Sons King *Richard* had murdered, was a Bastard, not the lawful Son of *Rich. D. of York*; and that *Richard* was the true Legitimate Son, and had been a long time wronged of the Crown belonging to him.

It was a Priest's invention and management, to set up *Lambert Symnel*, a Baker's Son, against King *H. 7.* counterfeiting him to be Earl of *Warwick*, who laid claim to the Crown, and was proclaimed King in *Ireland*, and marched into *England* with a good Army to maintain his Pretence: and by the like advice *Perkin Warbeck*, another Counterfeit, was set up against the same *H. 7.* by *Margaret* Dutcheß of *Burgundy*, to be *Richard* the younger Son of *Ed. 4.* and made such a considerable party in *Ireland*, and was so received and assisted in *Scotland*, that he bid fair for the Crown. And we could not forget what a cheating trick the Jesuits invented and practised of later years about procuring an Heir to a Crown that is become their chief support in *Europe*.

The Remembrance of these, and many other wicked frauds of the Romish Priests of the like import, to change the Successions of Crowns, to serve their Church; and seeing them so busie and industrious to prepossess the Peoples minds with an opinion that the Queen had a great Belly, and that it was a Son, when it was impossible in Nature to be known, if she had been then really pregnant; these things, we say, put together, confirmed our suspicions that they acted a part as they were influenced, and that a counterfeit Son might be resolved on to be set up for Prince of *Wales*, as common Fame confidently reported.

The Collections and Observations we have since made of the things that occurred during the Queen's supposed pregnancy, and about her pretended Delivery of this Son, have made the truth of the matter so plain in our apprehensions, that now we no more suspect, but conclude and believe this pretended Prince of *Wales* to be a mere Counterfeit: and we hold it our Duty to your Highnesses, to our Country, and to the whole Protestant Interest

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(this Child being set up against all these) to set before you all the Memorials we have taken in the whole matter, several of us at least having been very near the Court during the whole Transaction.

We crave leave to put your Highnesses in mind, that before we can convincingly set forth the special and particular Facts and Circumstances we have remarked in this matter, 'tis necessary that we first remember and evince the truth of some general Conclusions about the Proofs and Evidences whereby a true Judgment ought to be made of this supposed Prince; and if your Highnesses shall be clearly satisfied in the truth of those Conclusions, whereof we cannot doubt, you may be fully convinced by them alone, without further hesitation or inquiry, that this supposed Prince of *Wales* cannot be justly judged by any kind of Rules of Justice or Law to be in truth born of the Queen.

Grounds
for the P.
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tious.

The first certain Conclusion to be remembered is this, That by the Universal Rules of Justice and Equity, any Child of our Queens (that was expected or hoped to be Heir of the Crown of three Kingdoms, and to postpone or set aside an undoubted Heiress apparent, and also the right Expectance of a warlike Prince, and divers Princesses of the Blood) we say, such a Child ought to have been attested to be born of the Body of the Queen, of the personal certain knowledg of proper Witnesses sutable to the case and concern, in so great a number, and of such unspotted fame, undoubted authority, and perfect indifferency, that the Proofs of its Birth could never have been reasonably drawn into doubt or question, either in *England* or any other Christian Kingdoms or States.

A Son of the Queen's Body had naturally and really made an entry in the moment of his Birth, upon the apparent right of her Royal Highness: She had thereby rightfully ceased to be Heiress apparent to the Crown, and no Rules of natural Civil Justice, nor the Law of any Civil Government, will allow or suffer entries to be made, and persons to be outed of the Rights they apparently had in Judgment of Law, without sufficient Proof either of Right paramount to the others, or a determination of those former Rights apparent.

Our *English* Laws, and special Statutes for that purpose, abhor any Entry upon the apparent legal Right of another, either of the Will of the King, or of any Subject; the Admission of such a Practice is absolutely destructive of Property and all Civil Justice and Government; it dissolves the whole Civil Government, and turns all into the confused course of natural Right; wheresoever a Civil Government and Property is established on Entry of Will upon the legally apparent Rights of others, without sufficient Manifestation of their own greater or better Rights, it is directly contrary to God's Eternal Law, and that of all Righteousness amongst men.

Upon these certain infallible Foundations we build our Conclusion, That this supposed Prince of *Wales*, born of the Body of the Queen, ought by the Laws of *England*, the fundamental Rules of all Civil Justice and Government, and by the unalterable Laws of God, to be manifestly proved by them that pretend it, beyond all possible Contradiction, in such manner as is described and specified in the preceding Conclusion; and such Proofs ought to have been publicly divulged and made known to *England*, and the World, before his Patrons ought to have entred in his name upon her Royal Highnesses Right, in the Judgment of our Laws to be stiled and reputed the Heiress apparent to the Crown of *England*, and to assume to him that Honour and Glory, which her Highness justly had in *England*, and all the Kingdoms and States of *Europe*, to be apparently the next Successor to the Crown of *England*.

Questionless all the civilized Kingdoms in the World, that are hereditary, have pursued these principles of Justice and Reason in their common Custom, to have their Princes born in the presence of the Princes of the Blood, the chiefest Men of Religion, and the greatest Nobles and Officers in the highest Trusts for the Kingdom, and the Ambassadors and Ministers of foreign Kingdoms and States: That the Heirs of those great Inheritances might be so known and manifest, that it could not be possible for any Controversies to arise about their Births, and their being the lineal Heirs of the respective Kingdoms. Whensoever Rights of any kind are obtained merely by virtue of Birth, those that claim them are bound to prove by Witnesses sutable to the respective Circumstances of every Case, the reality of their pretended Birth, at their peril of being justly excluded from the Rights they demand: yet Justice does not always require the like Witnesses and clearness of Testimony about the Birth of all common Persons; the

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Circumstances of their cases being so different, that Witnesses of such Qualities and in such a number as may be sufficient proof for the birth of one Heir, may justly be judged insufficient for the birth of another.

But the Birth of the pretended Prince of *Wales* was attended with such Circumstances, that Justice required should have been testified by a plenty of such Witnesses as their proof might have amounted to the highest degree of Certainty possible to be built upon humane Testimony; doubtless the Circumstances of his pretended Birth were very extraordinary.

Circumstances of his being doubtful.

It was generally reputed and believed, that the Queen's sicknesses and infirmities had disabled her to bring forth a living Child. The famous Physician Dr. *Willis* shewed that opinion to his Brethren, of one of her Children, when her Majesty was much stronger, saying, there were *mala stamina vitæ*; and the popular Opinion therein was confirmed by several years experience.

It was notorious that two hundred to one throughout the Kingdom did not believe the report that her Majesty was with Child, notwithstanding all that was said of it by the King and the Queen, and the Prayers enjoined thereupon.

That her Majesty's pregnancy was as little believed in foreign Protestant Countries, as in *England*; and Pamphlets were published in several Countries as well as in *England*, that declared the Report of the Queen's being with Child, to be nothing more than an Artifice of the Jesuits, by those hopes of a Popish Successor to the Crown, to encourage the Catholicks in their Designs, and to gain Profelytes.

It was publickly known there was a jealousy in the greatest part of the Kingdom, that the Popish Councils had designed to impose upon them a counterfeit Prince of *Wales*.

There were also Circumstances about the Birth of this supposed Prince, of another sort, and no less important. It was the general opinion, that the Security or Danger of the Profession of the Protestant Religion, not only in *England*, but in all the Kingdoms and States of *Europe*, would be the certain consequence of her Majesty's bearing or not bearing a Prince of *Wales*.

The Birth of such a Prince was to be a great diminution of many Princes and Princesses in their Expectancy and Right to the Succession to the three Crowns, and threatned *England* with the Danger and Misery of falling under an Infant Prince in name, and in truth under the Domination of *Rome*.

All these special Circumstances attending the birth of this supposed Prince of *Wales*, being of such a nature, import and number, as the like never met together before in the Expectations of the birth of any Prince in the World; in this Case, natural Justice, common to all Nations, and the practical Reason of the special customary Law of *England* in the proof of Matters of fact: we say, both universal Justice and the peculiar Law of *England* required indispensably, that there should have been such proper proof that this supposed Prince was born of the Queen, as was answerable to all the special Circumstances in the case, such proof as had comprehended the Objections that might arise from every of them, as fully as was possible in the nature of the things, that the testimony of his Birth might have been sufficient to have satisfied the most jealous and distrustful about it in our own and foreign Countrys, and to have removed all the prejudices against it that were known to have been spread far and near by common Fame.

No certain Proofs of the P. of Wales's Birth.

It was absolutely necessary in Justice, Law and Prudence, to have had such proof of his Birth as our precedent Conclusion hath asserted: that is,

That there had been Testimony of it, of personal and absolutely certain knowledge. Women to have testified their personal sight and perception of that very individual Child coming naturally out of the Queen's womb; and men to have witnessed their immediate free and full sight and inspection of that very Child by the womens assistance in his pure natural nakedness, with all the known marks and tokens of his being just separated from the womb, and from those other things that are natural to the birth of a Child; the effects of such separation being there visible, and impossible to be hidden: such Testimony is always provided for in the birth of every Prince of the Blood in *France*, tho never so remote from the Crown.

That the Witnesses of those matters had been fit and proper witnesses, suitable to the greatness of the Persons and Things that might be in question, and to the vast extensive Consequence that may ensue thereupon. Nature, or the first Light from

Objections against it.

from God created in the minds of mankind, dictated the equity of such *Roman* Imperial Laws as appointed those who asserted Filiation or Marriage, to prove them by fit or proper and most unquestionable Witnesses. Most of the Writers about those Laws serve themselves therein of these Words severally, which we will for shortness put together; *Matrimonium & filiationem qui asserunt, debent probare per testes idoneos omni Exceptione majores*; they that alledg a Marriage or a Child being, by virtue whereof they claim, ought to prove it by Witnesses that are above or beyond all possible Exception: in this case there ought to have been such fit Witnesses as nothing could be objected against them in any respect, either by Englishmen or Foreigners.

That the Witnesses which Law and Prudence required of both Sexes, had been fit and proper in respect of their years, or age; that the Women had been Matrons, whose Gravity and Sobriety were fit to attract some decent Reverence from the men of like Quality, in their exposing to them nakedly the works of Nature, as was unavoidably necessary.

That they had been fit and proper in regard of their sufficiency of knowledg and understanding in the matters of Child-bearing; such as knew by Experience all those works of Nature, in what manner the Mothers ought to be and are customarily treated in their real Travel and Child-bearing, and immediately after it; and what are the natural Symptoms in the Mother that accompany the real bringing forth of a Child before it hath been its natural time of nine Months in the Womb, and at its due natural time; and also the signs of a Child perfectly grown in the Womb, or brought to light before its time of perfection. It was of necessity that the Witnesses had been of such knowledg and experience in all these Matters, or so sufficiently informed about them by others of skill and faithfulness, that it might have been manifest to the Kingdom that such Witnesses could not be imposed upon, deluded, or deceived by any cunning Artifices to believe this pretended Prince to be born of the Queen, if he were in truth supposititious and counterfeit.

The general Rules of our Canon Law required, that the Witnesses had been publickly known to the Kingdom by their Persons or their Names, their Interests, Concerns or Imployment. Our Fundamental Laws have taken care that all matters of Fact should be decided by Juries of the Neighborhood where the Facts are done, that the Witnesses that testify them, may be known to the Jurors; and Fraud is always suspected, if persons unknown to the Neighborhood of the Facts be produced to witness them, unless there be manifest reason for their knowledg of the Fact better than those that were near to the Place, and known to the Jurors.

The reason of our Law is of impregnable force in the case of the supposed Prince, that the Witnesses of his Birth should be persons publickly known, on whose knowledg, truth and credit, the whole Kingdom and the Christian World should rely in a matter of such vast consequence. Obscure unknown persons, never publickly named or heard of in this or any foreign Kingdom, and above all obscure Foreigners, *French* or *Italians*, or others, ought not to be deemed fit or competent Witnesses to satisfy the Kingdom in this Fact. Indeed when Circumstances are considered, it will be evident that their pretended Testimony ought to be rejected; and if it be offered, it justly puts a prejudice upon their pretences, in regard there was a whole Kingdom, besides all the eminent Ministers of foreign Princes and States, out of which Witnesses might have been selected, that were publickly known and heard of by all the People; and the necessity of it was never so manifest in any case, it being known to his Majesty and his whole Court, that the Queen's being with Child, was not generally believed either in *England* or foreign Countries.

Grounds of
Suspicion.

Common Justice required that the Witnesses had been fit and proper, in respect of their high distinguishing Quality; either that they had been dignified with some of the highest Ecclesiastical Dignities, as Arch-bishops, or Bishops; or had been by Birth or Creation of the degree of the greatest Nobility of the Kingdom; or that their extraordinary Worth had raised their Reputation, and had been honoured with the great and eminent Offices of Trust in the Realm.

Our Laws are impartial to High and Low in hearing the Testimonies of Witnesses in every Case; and therefore they duly consider both the Circumstances of every Fact to be proved, and of every Witness, and his Capacity to prove it. Our Laws indeed judg not Truth and Integrity to be annexed and intailed to

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Dignity, Nobility or Greatness; yet they justly claim the Testimonies of Persons of great Dignity in the Church, or of Noble Birth, and raised Knowledge and Fortunes, and independant upon others, as more free from Exception (which this Case requires) than those of weak understandings, without the advantage of excellent Breeding and Instruction, or indigent, and bound to depend on the Favour of others for their support, like Nurses and Midwives, and other Servants.

Therefore (*cæteris paribus*) the Capacity and Probability of knowing the Facts, and the Indifferency of Witnesses of High and Low degree being equal, our Laws justly allow most Weight and Credit to the Testimony of dignified and noble Witnesses; and they are therefore required to prove the Fact of a Prince's Birth, whereupon depends the Right and Title to Kingdoms, to exclude the apparent Right of one, and to put another into possession of the same.

Our Laws presume Persons of such high degree to have greater sense and regard to Conscience, more generosity and contempt of Falshood, and more tenderness of their Honor than those of Low Condition; and on that presumption, Noblemens Affirmations, upon their Honor, are in many Cases accepted by our Laws in lieu of their Oaths, to which all others are obliged in the same or like Cases: and for that reason their Declarations of the Birth of a Prince, without their making Oath thereof judicially, have been as certainly relied upon by the Kingdom in the Descent of the Inheritance without Dispute, as if they had sworn their knowledge in the forms of Justice.

There are also other circumstantial Reasons (to which our Laws have regard) for the greatest value to be put upon the Testimony of the Nobility of both Sexes about the Birth of a Prince; they are most accustomed to the presence and conversation of the King and Queen.

Such Ladies are justly presumed to be free from too great awful Distances, common to those of lower Quality; and to have more Audacity and Confidence to make such near Approaches to the Queen in her Travel and bringing forth as are necessary, that they may be ocular Witnesses that they have seen the Child in its very Birth; and such Nobles are more bold and free to take such a searching View of the Child in its naked Naturals as may make them knowing Witnesses of its Birth, and absolutely certain that they are not deluded with a Supposititious Child.

*Witnesses
wanting or
defective*

Such Noble Witnesses are also known to have greater Obligations upon them than others, to prevent all possible Questions and Disputes that may arise by any uncertainties about the Succession to the Crown, which may divide and destroy the Kingdom; and their great Interest and Posterities, their Conditions and Fortunes are supposed, by our Laws, to be above temptations by Bribes of Wealth, or Honour, to connive at falshood, or to stoop to serve a counterfeit Prince.

Upon all these Considerations, the Witnesses of the Birth of every *English* Prince ought to be of such High and Noble Quality; and it was known to have been infinitely more necessary, that the reason of our Law had been exactly observed in the case of this supposed Prince, than ever it was since the foundation of the Kingdom; there never was any such occasion to have stopped the mouth of Publick fame, or to have shewed the justly jealous Subjects, that there were such fit and proper Witnesses, that a Prince was now born of the Queen, as were unquestionable, without any possible exception, whose Truth and Faithfulness might be relied upon securely. Justice also required, for full Security, that there had been competent and sufficient numbers of those fit and proper Witnesses; at least that there had been so many of them as were able to obviate all ways and practices of deceit, that it could not have been supposed to be possible that a Fraud had been put upon them.

This sort of Caution is always just and necessary in the Birth of our Princes; but in the present case there could have been no honest end, intention, or pretence to have confin'd themselves to a small number of Witnesses of a fact, where in a Kingdom, known to be filled with just suspicions of an Imposture to be put upon them, were to be satisfied merely by the Witnesses averment, and a Noble Princess also to be excluded from being Heiress apparent to the Crown.

Our Laws require Witnesses of Facts answerable to the Nature and Circumstances of them, and always require ample Testimonies, when the Parties obliged to prove them had it in their power and choice, without charge or burden to themselves, to multiply their Witnesses to what number they pleased, and

could not be ignorant of the usefulness or necessity of it; and yet more especially if the Fact were such, whereby great benefit was to accrue to them, and answerable Loss to others; in such a Case it would much abate the strength of the proof in the course of the Law, if there were such a small number of Witnesses as might leave room for any Objection, or the least doubt of the Fact.

The antient *Roman* Imperial Laws in the Cases of Subjects, when there was a Posthumus to be born that might exclude another Heir apparent; we say, those Laws in common natural Equity, to prevent a supposititious Child, appointed thirty days notice to be given to the apparent Heir, and all others whose Right was concerned, of the expected time of her Travel and Delivery, that on the behalf of the Heir apparent, Women might be sent to be present to see the Birth of the Child that might become the Heir: that Law confined the number to five free Women to be sent, allowing her that was to be delivered, also five Women of her own chusing, and no more; so that the number to be present at her delivery should not exceed Ten, besides two Midwives, and Six Maid-Servants that were no Witnesses.

More
Grounds of
Suspicion.

This Rule was set down positively in the Empire, as the Dictate of natural Equity and Prudence; and tho *England* hath no positive written Law, that prescribes any set number of Friends to be sent in such a case by the Heir apparent, to see the Birth of such a Child, yet the Custom and Practice is in every such case (tho no Fraud be suspected) to give notice to the next Heir, and that some of their Friends are customarily sent (to what number they please) to be present at the Birth of the Child, that may be an Heir to the Exclusion of another.

That practice with us is not of Favour, but of legal Right; our Common Law generally binds all that set up a claim to any thing that another hath, to give such notice of his pretence as is needful to make his just defence if he can, and to prove the Fact whereby he claims, by such a number of Witnesses as may put the Truth of it out of doubt to the Court of Judicature: but that number in the course of our Law is greater or smaller, according to the Cause that appears of jealousy or distrust of the Truth of the Fact pretended.

These Rules of our Law, and the Reasons of them fully include the case of a Pretence of a Child to be born to exclude an Heir apparent; and if there were many known grounds of Suspicion in any such case, that it was designed to set up a supposititious Child, and a notorious common Fame of it, and no notice were given of the time expected of the Child's Birth, hoped to be Heir, to the then Heir apparent, or to any that had expectancies of the Inheritance; We say, in such a case, by the Rules and Practices of our Laws, a small number of Witnesses of the Birth of a Child ought not to be believed, since they that should claim for such a Child, might by due notice to the Parties concerned have had such Witnesses as had put the Child's Birth beyond all question.

Certainly by the Reason of our Common Law, there ought to be a much greater number of Witnesses of the Birth of every of our Princes, than of the Birth of the Subjects Heirs; but our Law requires that the Birth of this pretended Prince of *Wales* should have been proved by a greater number of Witnesses than was ever needful heretofore, in the case of a Prince: there ought to have been so many fit and proper Persons present at his pretended Birth, that it might have been manifest to all that had heard it, that the Eyes of so many Witnesses of such Condition, Knowledg and Judgment, could not have been deceived in what they had testified to have known and seen; the number ought to have been so considerable, that there could have been no reasonable Suspicion, that so many of both Sexes, and of various Dignities, Honours and Interests (and some of them of Consanguinity with the former Heiress apparent) had made a Confederacy amongst themselves to abuse the Kingdom with a counterfeit Prince, and that so many had kept each others Counsel in a Fraud and Falshood so odious and injurious.

It had been common Prudence as well as Justice to the Realm, that the Witnesses of the Birth had been very many, that amongst such a number some of them might have been known in one part of the Kingdom, and others in another part, and that some of their Names and Qualities might have been known in Foreign Countries, and for that reason the Ministers of Foreign Princes (according to Custom) ought to have been some of the Witnesses; the Peoples knowledg of the Names, Qualities, or Persons of the Witnesses, had much conduced to their fuller assurance of the Truth: it would have appeared to them incredible and almost

most impossible that the Integrity of such, and so many Witnesses could have been attacked either separately or jointly.

But on the contrary, seeing Custom and Law required a good number of fit and proper Witnesses to have made up a Testimony of the Birth of a Prince, that might have been truly said to be *omni Exceptione majus*, above all possible Objections against it; and seeing the Wit of Man cannot invent a reason why the King and the Patrons of this pretended Prince of *Wales*, did not provide such ample and unquestionable Testimonies, that he was born of the Queen, when they could not be ignorant that it was the voice of common Fame in *England* and foreign Countries, that her Majesty's Conception of a Child was meerly fictitious, and that a supposititious Prince was designed. And seeing no Excuse or Pretence is published for the neglect or failure of such a Testimony of his Birth, we say (the Circumstances of the Case being considered) it's most unjust to expect or demand of your Highnesses, or of the People of *England*, or of Foreigners, a Belief and Acknowledgment that this pretended Prince of *Wales* was born of the Queen.

Fit Witnesses
wanting.

As our Common Law informs us who are fit and proper Witnesses, whose Testimonies ought to be received in this Case, and in the proof of all matters of Fact respectively; so the same declares who are deem'd to be unfit, and disabled to be Witnesses in all the various and respective Questions of Fact; it shews whose Testimonies ought not to be heard, and much less believed in divers sorts of Facts that come into question. If your Highnesses and the Kingdom be told of the presence of such persons to have been at the Birth of this pretended Prince, as ought not by our Laws to be accounted Witnesses, nor their Averments in the case to be heard by your Highnesses, or the Kingdom, and much less to be allowed to be of any Validity in the common course of our Courts of Judicature; if parties concerned to prove a Fact do knowingly offer for Witnesses such as our Laws reject in the Facts in question, it turns to the prejudice of their other proof. We are therefore obliged to acquaint your Highnesses with the Actions, Qualities, Respects, and Circumstances that have disabled many by force of our Common Law to be heard as Witnesses of the Birth of this pretended Prince of *Wales*.

First, Our Laws utterly disable all those to be heard in the Case, that have received either Gifts of Money, or Honours, or any other Reward or Benefits whatsoever for their pretended Assistance about his Birth, or by reason or occasion of that pretence. 'Tis the common Practice of our Law, that when a Witness is produced, the adverse Party may examine him upon his Oath whether he hath had Money or other Reward, or Gift, directly or indirectly, for or by reason of the Matter in question, or from the Party in whose behalf he is produced to testify, or from any of his Friends; if he cannot acquit himself thereof by his Oath, though it cannot be proved against him, our impartial Law deems such a person not only to be partial in the Case, but corrupted, and bribed, and unworthy to be heard.

Witnesses of
the supposed
Prince of
Wales's
Birth liable to
Exception.

Our Law will not admit those to be Witnesses for the Birth of this supposed Prince of *Wales*, that have any Promise, Expectation or Hopes of any Advancement, Office, Place, or Benefit by or under him, if he shall be received and allowed by the Kingdom to be Prince of *Wales*. They that cannot purge themselves by their Oaths from all such Promises, Expectations and Hopes, are not in the Judgment of our Law Persons indifferent and unconcerned in the Event of the Matter in question, nor fit to be heard as Witnesses, their Testimonies being partly for themselves, and their own Benefit; and the allowance of such Testimonies in Judicature would in consequence subvert all Civil Justice and Government. Our Law excludes all from being Witnesses to support the pretence of the supposed Prince of *Wales*, as have such dependance on the Patrons and Maintainers of him, that they are in danger of damage and loss by them of any kind, if they should displease them in their Testimony. Our Laws judg all such not to be free and of their own Right in the Case, but bound to serve and please the Patrons of the Cause; and therefore presume that they may be corrupted by fear of losing the Advantages they love, if they shall impartially declare the whole Truth, and nothing but the Truth of the Matter.

Our Laws seek to know the naked and entire Truth of all Facts that come into legal Question or Contest, and will not admit of any to be Witnesses of them, unless they appear to be free from fears of any Prejudice to themselves by speaking the Truth impartially. We are enforced by the Concern of all the Protestants,

The Law in
that Case.

to speak more plainly than we would; we must say, that all that hold Offices of Profit and Honour during the King's Will, are by the Laws of *England* excluded out of the number of fit and competent Witnesses about the Birth of this Child, whom his Majesty hath proclaimed and maintains to be Prince of *Wales*. Our good Laws have regard to humane Infirmities, and will not put a Temptation upon Men to suffer them to be Witnesses in matters wherein they may damnify themselves in the loss of their Offices, if they happen to displease their Master in his concern in the case, by testifying clearly the whole Truth of it; they are not free in the Judgment of our Laws, to speak the Truth without fear, and for that reason are not to be received by the Kingdom as Witnesses in this Case.

Our Laws will never allow or suffer any to be Witnesses in this Case, who are known, or may be proved to have Enmity or Prejudice of any kind upon any account whatsoever to Her Royal Highness, against whom most immediately this supposed Prince contends; she having been most unquestionably the Heir apparent of the Crown, and justly so remaining until the Kingdom be satisfied by a sufficient Number of lawful Witnesses, that there is a Prince born, whereby her Claim to the next Succession shall be postponed. The Question of Fact to be decided by Witnesses is apparently between her Royal Highness and this supposed Prince; 'tis a legal, unanswerable and conclusive Exception against any to be received for Witnesses against her in his behalf, that they are declared Enemies to her, and the professed Protestant Religion, the destruction whereof they are bound in Conscience to endeavour; and for that reason are such known Enemies to her right of Succession to the Crown, that their Church have decreed and declared her Right, and the Right of all Protestants to any Authorities, to be absolutely forfeited to the Papists for Protestant Heresie.

*All Papists
against a
Protestant
Heir.*

It cannot be denied, that all that are sincerely *Roman* Catholicks, and believe their own Church, do judg her Royal Highness to be an excommunicated Heretick by their Church, and that all her Rights in possession and reversion are thereby confiscated; and that they are all obliged by the Law of their Church, in conscience of their Religion, and by the hope of Pardon of their Sins, to defeat and destroy by all ways and means in their power, all her Pretensions to the Descent of the Crown upon her, and to assist to the investing the Right to the Succession in a *Roman* Catholick. We might here add, that our *English* Papists are all in Union and Communion with the Pope, as appears by his Nuncio in *London*; and he is by the antient Laws and Statutes of this Realm declared the publick or common Enemy of the Kingdom near two hundred Years before *Henry* the Eighth.

*Enemies to
their Royal
Highnesses.*

'Tis manifest that the *English* Papists are declared Enemies to her Royal Highness's Right in this case between her and the pretended Prince of *Wales*, and therefore by the Laws of *England* they cannot be Witnesses of the Fact in question, neither ought their Testimonies therein to be offered the Kingdom to delude the People.

The Civil Law so fully concurs with our Common Law in rejecting Enemies to be Witnesses in the cause of their Enemy, that it denies to give credit to what they may testify in the cause of their Enemy with their dying Breath after they have received the Eucharist; that is the general Conclusion of the Doctors of the Civil Law, *Inimicus etiam si in articulo mortis constitutus, & accepisset Eucharistiam, repellitur a testimonio causa sui inimici*. We mention this chiefly to shew, that 'tis not only by our *English* Laws that our Papists are rejected from being Witnesses of the Birth of this pretended Prince against her Royal Highness, but by the antient approved Rules of the Civil Law which they generally acknowledg, and by the Judgment of their own Doctors.

Herein are only set forth to your Highnesses the Laws of *England*, that you may justly insist upon as your Right, to prevent the Church of *Rome*'s Conspiracies against you: we reflect not on the credit or truth of any *Roman* Catholick Lords, or others, in giving their Testimonies in Matters of private Interests, wherein the cause of their Church is not in question, and the Laws of their Church bind them not to either party. But since they are bound in this case to be Enemies to her Royal Highness, our Law will not allow them to be believed to her Prejudice; and they must openly renounce that common Honesty to which they pretend, if they offer themselves to the Kingdom to be competent Witnesses against her in behalf of this pretended Prince, when they are conscious to themselves, that not only our Laws but natural Justice and Equity abhors such a Practice.

We must say with all due Reverence, and most humble Submission, that our Laws will not allow that the Declaration, or Testimony of his Majesty, or the Queen, should be accepted, and believed in this case as lawful proof, that this pretended Prince was born of the Queen; 'tis sufficient for us, that our Laws will not suffer our Kings to descend into the place of Witnesses, they will not admit them to testify their own Knowledge of the Facts in any case whatsoever, Criminal or Civil. But there is abundant reason also from natural Equity and civil Justice, that the Kingdom should not receive and rely upon the King's Affirmation about the Birth of this supposed Prince; their Majesties have publickly espoused his Cause for their own in all respects; and none on Earth, Kings or Subjects, may justly expect, or be suffered to supply the Place of Witnesses in their own case, since Civil Government is established. If they might lawfully be their own proof for their cause, they might as justly be Judges of their own proofs, which in consequence would turn up the Foundations of Civil Government; one of its chiefest original Intentions being to introduce a Course of Justice, that none might be their own Judges.

What proofs the Law requires in the Case.

We would not speak thus plainly, if it were justly avoidable; we cast no scandal hereby upon his Majesty, nor any way come near the crime of Detraction; we barely relate the Law of *England* in this case of his Majesty's Affirmation of the Birth of this pretended Prince, that it hath not the force of legal proof, or of the Testimony of one legal Witness. And his Majesty is obliged in Justice and Honour by his Office and Oath not to impose upon his Subjects to believe, and rely upon his Affirmation or Word in this case (nor on the Queen's, that's necessarily included in his) he cannot desire the People diffusively to change their antient Customs and Laws, to substitute their King's Words or Assertions in the room of sworn legal Witnesses, to prove the Matters of the highest Moment about the Government.

If the Kingdom should allow the Affirmation of their Kings to be sufficient to make a Lawful Prince of *Wales*, without such Witnesses of his Birth as our Law requires, they would consent to change the antient Constitution of the *English* Monarchy, and so destroy the established legal Security of their Freedom and Estates. The Laws of *England* in this case are not dissonant from the Laws of other Kingdoms, and the most absolute Empires; the Civil Law now received in most Christian Kingdoms, that was so adapted to absolute Government that it was one of its Principles, That *Principis verbum pro lege habendum est*, the Word of the Prince was to be taken for a Law; we say, that Law never ascribed absolute Credit to the Prince's Affirmations of Matters of Fact wherein the Subjects Rights were concerned. It passes for a Rule of that Law in such cases, *Princeps indistincte non creditur*; the Emperour is not to be believed intirely without Limitations and Restrictions, in his affirming Matters of Fact relating to his Subjects legal Interest and Securities.

What the King's Affirmation signifies in the Case.

The learned Doctors in that Law determine, that the Emperour's Affirmation, that a Subject hath committed Treason or Rebellion against him, ought not to be believed or taken for a proof; they say expressly, *Regi fides non adhibetur, si attestatur talem fuisse proditorem*. Likewise if he pretends and declares a cause why he deprives any Subject, or Feudatory of his Interest, he is not to be believed; there must be proof, and the Parties intended to be prejudiced must be cited and heard in their defence.

They generally resolve, that when a King asserts or attests any thing to the prejudice of another, he is not to be therein believed, especially when his Affirmation is for his own advantage, and to the Subjects damage or inconvenience: These are their words, *Quando ex assertione Principis, ipse principaliter sentiet commodum & subditi incommodum, tum ipsi Principi non creditur*.

The Emperour *Henry* the 6th of *Germany* had a due sense of the Justice and Reason of the Law herein, about the Year 1200. He did not expect that the People should believe the Affirmations of himself, and his Empress *Constantia*, about the Birth of a Prince, when there was a rumor and suspicion that *Constantia* was past her age of Child-bearing, and feigned a Great Belly; he gave the People plentiful proof by Witnesses, more than Reason required; he prepared a most publick Place, wherein she remained expecting her time of Delivery, *Ventre custodito*, with publick Watchers, or Keepers, that no Supposititious Child might possibly be convey'd to her; and there in the sight of the People of the City, and all the Matrons, that would and could possibly approach her (none being

Instance of the Emperour Hen. 6.

excluded) she brought forth a Prince, that was afterwards chosen Emperor, *Frederick the Second*.

If it were needful, we could shew your Highnesses that the Honour and Security of our Royal Family of *England*, with the Peace and Safety of the Kingdom, were intended in the Constitution of our Legal Monarchy in such manner, that the Kings should not have Power at their Will to change the Succession, or by any means prevent the Descent of the Crown to the next in Blood. But if the Kingdom should believe his Majesty's Affirmation of this supposed Prince's Birth, without proof thereof, according to the Laws and Customs of *England*, the next Succession were really and actually thereby put out of the Legal Course, and referred to the Will of the King, which is in effect to make the Crown Patrimonial; whereas by the Laws and Customs of *England*, the Right to the Crown descends to the next of Blood, and the Successor is most properly to be stiled the Heir of the Kingdom, by force of the Kingdom's Laws, and cannot be defeated of the Succession by any Act of the Predecessor. If therefore the King should gain so vast a Power by imposing on the People to believe his Attestation of this supposed Prince's Birth, 'tis manifest that natural Justice, as well as the Law of *England*, makes it of no force or effect to the prejudice of her Royal Highness, in her esteem of being the Heiress apparent to the Crown.

*The Arts
of the Je-
suits.*

We believe the Jesuits, and other maintainers of this supposed Prince, will claim (as is their common practice) against these our Laws, whose force detects and defeats their Impostures; they will pretend that 'tis unreasonable to expect a Testimony of his Birth from such Witnesses, and in such manner as are herein described, exclusive of all *Roman* Catholicks. But the Reason and Wisdom of these Laws are irresistible, and it's a great Circumstance shewing their Guilt, that they are displeased with the Laws that prevent Falsehood and Impostures, and require proofs of Facts as clear as the Sun.

The Just and Innocent are never offended at any Law that provides for Truth and Righteousness. They cannot but be conscious to themselves, that it was more easie to have provided such Witnesses as our Laws require of a Prince's Birth, than to have had such as they provided, that would counterfeit to be Spectators, and be content (as 'tis now said they were) to see nothing of the Fact, of which they were to be published to the Kingdom to have been the knowing Eye-witnesses.

*Persons fit
to be pre-
sent at the
Queen's be-
ing brought
to bed.*

'Tis notorious that the presence of Ten of the Protestant Nobility of either Sex, and other Persons of eminent Quality, might have been as easily procured as one of the Catholicks, if it had been intended to deal justly and fairly with the Kingdom; and they know that the Protestants throughout *Europe* (not the Papists) wanted and desired Satisfaction about the Queen's great Belly, and her Delivery: The Suspicions of a counterfeit Prince were strong amongst them, and decryed by all the Papists; they knew the Friends and those of Consanguinity with her Royal Highness were as ready to attend, if they had been called, as any Catholick whatsoever; and they were not ignorant that Custom, Law, and natural Justice required, that convenient notice should have been given to her Royal Highness above all others, of the expected Time of the Queen's Delivery, that such noble Matrons as she had thought necessary might have been sent to have continually attended near her Majesty, and to have been impartial Witnesses of the Birth beyond exception: they understood the custom of calling Embassadors to be present at the Queen's Delivery, and that a common Fame of a designed Imposture was spread in foreign Protestant Countries, and that there were Envoys and publick Ministers from some of them, especially that the *Dutch* had an Embassador there, and expected to have been called: they know that those Provisions for legal unquestionable proof of the Birth that was pretended, had been no hindrance of the presence or assistance of as many Papists of each Sex as her Majesty had desired, and she might have as intirely depended upon their only help, if it had been her pleasure, as if those lawful Witnesses had not been present.

The Popish Councils delude his Majesty, if they perswade him that any Pleas of Inadvertency, Neglect or Ignorance can satisfy the Kingdom instead of the Proofs in the Case, that the Custom and Laws of *England* require. 'Tis a Rule of our Law that none shall make advantage of their own *lachesse*, that is their Failures or Neglects of what they ought to have done; less evidence is never to be accepted in our Courts of Judicature, because the Party concerned was negligent

in seeking it, or ignorant when he might have known his Duty.

We presume your Highnesses in reading this, may be satisfied in the Truth of our first preliminary Conclusion, which is necessary to be always remembered in order to a just Judgment to be made of this supposed Prince of *Wales*, and of the things proper to be done by your Highnesses, by reason or occasion of his Pretences; we doubt not your Highnesses will clearly perceive what you may in justice demand of his Majesty in the Case, preserving nevertheless a most pious sense of a filial Duty.

What judgment is to be made of the pretended P. of W.

We may further remember your Highnesses, that as the Case now appears, no acknowledgment of that pretended Prince can justly be required of your Highnesses by his Majesty. It's contrary to Justice and our Laws, that her Royal Highness should depart from her Place and Claim of Heiress apparent to the Crown, and resign it to a Child, who is not yet lawfully witnessed to have been born of the Queen. We therefore put your Highnesses in remembrance of a second Conclusion fit to be premised in this Case as an absolute Certainty to be insisted on; that is,

That neither the Laws of *England*, nor any natural or civil Justice do require of your Highness any kind of Testimonies or Proofs, that the Pretences of this supposed Prince of *Wales* are false and feigned, or that he was not born of the Queen.

Whosoever claims to be the natural and legitimate Son of any Family, it's wholly and solely incumbent on him to prove it by the Laws and Customs of all Civil Governments, and by the manifest Light of Nature; those two Rules of the Civil Law are adopted by all Countries into their Courses of Judicature, *Qualem quis se facit pro fundamento intentionis suae, talem se debet probare*; and *Filius qui petit hereditatem tanquam filius, debet probare filiationem*. If Sonship, or other Quality or Relation be the ground of a Demand, that Foundation must be always proved by the Demandant; if he that pretends to be Heir by his Birth to any Inheritance, fails of such sufficient Witnesses as the respective Laws of Countries require to prove his Proximity of Blood, there needs no Testimony on the part of those that deny his Lineal Descent. The Course of the Law of *England* is known to most *Englishmen* in the Trial of all Claims by Birth; the Claimant is always put to prove all that he sets forth of his Descent in his Declaration, and the least defect of proof is fatal to his Process: if the Defendant perceives the Plaintiff to want sufficient legal Testimony of his Descent and Birth, he never troubles the Court with Proofs on his behalf; 'tis enough for him that denies the Descent pretended, to shew the insufficiency of the Witnesses and their Testimony produced to prove it.

How Legitimacy is to be proved.

Your Highness is not obliged, either by our Laws or natural Justice, to have Witnesses to prove the pretended Prince of *Wales* to be an Impostor, her Royal Highness having been the legally acknowledged Heiress apparent of the Crown. Unless such lawful Witnesses that he was born of the Queen, were known and published, as did satisfy the Kingdom, neither your Highness nor any Princes or States may in Justice acknowledg his Pretences; her Royal Highness ought to remain in the esteem of the Kingdom, and of all Princes and States, as the Heiress apparent of the Crown, at least until a Prince shall be legally known and declared. And 'tis a manifest wrong to your Highnesses, to the Kingdom, and to all the Protestant Interest, to suffer this supposed Prince silently and submissively without publick complaint of the wrong, to assume the Name of Prince and Heir apparent to the Crown.

When the Popish League endeavoured to set aside the Claim of your Highness's Ancestor *Henry IV.* to the Crown of *France*, and proclaimed the Cardinal of *Bourbon* to be King, he sent Agents to the Pope (tho he was then a Protestant) and to all the Princes and States of Christendom, to manifest himself to be the right lawful Heir of that Crown; and the *Venetian State* (to his vast Advantage) contested it with the Pope's Nuncio, that they ought so to acknowledge him, because it appeared that he was the right Heir.

His Right indeed was to be King in possession; but there is the like Reason and Justice to support her Royal Highness's Title to the Crown in Reversion, since another is set up, and declared throughout the World to be the right Heir of it, immediately after his now Majesty. 'Tis undoubtedly just and reasonable for her to demand and expect, that the Pretender's Birth (so much and so justly suspected) should be made manifest to the Kingdom by Witnesses without

out exception, according to the Law and Custom of *England*, and to natural Equity.

What the
Pr. of O.
is to do in
the Case.

It may be of dangerous Consequence, to suffer a false Opinion of him in the Kingdom, and the World to gain strength by time, and neglect: yet neither Law nor Equity puts any burden of proof in the Case upon your Highnesses: 'Tis only incumbent upon your Highnesses, to declare the wrong to your selves and the Kingdom by the pretended Prince, and to take care that no illegal, imperfect or fallacious Testimony in the Case be invented or obtruded upon your selves and the Kingdom to support his pretences. Her Royal Highness's Claim and Right to be the next in Reversion after his now Majesty in the legal Descent of the Crown, ought to stand unshaken, and unquestionable in the Judgment of our Law and the Kingdom, notwithstanding any thing to the contrary that hath been hitherto lawfully published or declared.

We cannot doubt but 'tis here made manifest, that your Highnesses publick refusal to acknowledg this pretended Prince of *Wales* may be built upon such sure Foundations of Law and Justice as can never be overturned: we would not therefore trouble your Highnesses with all the Circumstances of the Case which we have remarked in our Observations, that make it to us not only improbable, but incredible, that he was born of the Queen; since 'tis not possible for us to send Witnesses personally to prove to your Highnesses every Circumstance that we have noted, and 'tis not just that your Highnesses should take them up upon unknown Authority; since we cannot in prudence subscribe our Names to this Memorial, nor so much as the Names of our Witnesses to the Facts; since the proof of the Circumstances can never be a Foundation of positive unquestionable certainty, but can only serve to make the Falshood and Jesuitical contrivance in this Imposture more infamous and odious: since 'tis undoubtedly your Highnesses Interest never to depart from the manifest Principles of Law and Justice, which put it wholly and intirely upon the Maintainers of the supposed Prince to prove him to be such as they pretend, with the highest human Certainty that can be acquired by Witnesses, and to the Kingdoms full Satisfaction.

And since 'tis notoriously known that above all others of the *Roman Church*, the Jesuits (who in this Matter will most earnestly contend against your Highnesses) have the greatest effronted Confidence to deny and forswear Matters of Fact, however certainly proved and known; and they would be glad to have any thing offered in this Case that might give them room, or a possibility for dispute and seeming doubtfulness of Fact, that they might obscure the Truth, and deceive some of the people with their equivocal Affirmations and impertinent Cavils at your Highnesses Witnesses or their Testimonies, and their bold Asseverations of Falsehoods.

Upon all these Considerations we shall refrain from the Relation of many very pregnant Circumstances that we had collected; which if they were taken jointly in their natural Order and due Connexion, would by their united Force strongly induce impartial Judges to conclude, that the Queen could not be the Mother of the supposed Prince.

Circum-
stantial E-
vidences
against the
birth of the
Pr. of W.

We could give very great circumstantial Assurances to your Highnesses, that there never were or appeared to be any reasonable natural grounds for a belief that her Majesty had conceived a Child. She never had the first most natural, known, and common sign of Conception; her *mensis profluvium*, or *Terms*, continued their usual uncertain Course as formerly, during the whole time of her pretended great Belly: She did not conceal that it was with her after the manner of Women in her Journey to *Bath*, nor that they continued some days after the King left her there; and all the industry used afterward to hide them in their Seasons, proved ineffectual, because those things came to the knowledg of more than were made privy to the whole Imposture designed.

Her Majesty having not that natural Sign of her Terms stopping, whereby Women usually conclude themselves to have conceived, from whence she could make a Reckoning; it seems by the King's Speech in Council, that their Majesties had both thought fit to publish her Conception to have been at the time of the Present made to the Lady's Image at *Loretto*, upon the King's return to the Queen at *Bath*.

It was then too soon for them to be provided of a supposititious Child, and so they might name any time they pleased of her Conception, and then seek for a Child that might agree with it; and it appeared pious and great to make her Conception

Conception one of the Miracles of the Lady's Image, tho it happened unluckily afterward, that they could not make the Times of her Conception and supposed Delivery to agree with Nature's most constant Time of nine Months.

The Confidants and Advisers about the Imposture hearing the Voice of common Fame upon the King's declaring when the supposed new born Child was shewn, that he had now a Son a strong and lively Prince, the meanest Child-bearing Women that were disinterested, saying thereupon in mockery, that such a Child of about eight Months, was as great a Miracle as the Queen's Conception hath been reported : We say, the Confidants fearing it might make the whole Story less credible, and help to detect the Fraud, they have persuaded her Majesty to declare, that she had miscounted the Time of her conceiving the Child, and that she knew very well that she was with Child before her use of the Bath. By this new Reckoning they thought it might be affirmed, that the Child was born at his due Time, and might be strong and lively, as his Majesty had said ; and they thought it an easy Sham to say, Women misreckoned very often.

But it was unhappily forgotten that her Majesty had continued and expressly affirmed her first Reckoning several Weeks after her pretended Delivery ; it was forgotten that it was known sufficiently that her Majesty had her Terms in her Journey to Bath, and four days after the King's going from thence, which was a manifest proof that there was then no Conception : It was not considered, that if it be truth that the Queen knew her self to have then conceived, as she hath lately declared, then it cannot be a Misreckoning ; and the meanest Physician she had at Bath would have told her, that if she had imagined a Conception as she now says, Bathing would probably destroy the Embrio.

It was not well remembred how the King had declared with her Majesty's Privy the Miracle of the Time of her conceiving quite inconsistent with her new Account ; neither was it thought of in the new Council, how her Majesty's Truth and Honor should be saved in her contrary Stories, of the Time of her conceiving, even since her supposed delivery ; but we need not mention that, since the World knows how little regard the Jesuit Confessors have to Truth.

Her Majesty shewed no grounds to believe her Pregnancy by Nature's progress therein. The common natural Signs, that in four Months follow in every Woman that hath a Child in her Womb, were wholly wanting in her Majesty, there was no swelling or increase of the usual proportion of her Breasts, nor was there any Milk ever seen to be in them (tho one Lady took the confidence once to affirm it) the proportion of them was visibly the same to the Eyes of all that can be lawfully Witnesses, and were usually in her presence ; and none of those Ladies proper to be Witnesses, could ever obtain the satisfaction to see a drop of Milk from her Breasts, tho it had been her Majesty's Honour, Interest, and Pleasure, to have shewed it if there had been any reality in the pretence of her Pregnancy.

*Reasons to
doubt of
the Queen's
Pregnancy.*

We put this Circumstance into our Memorial, not without some Mirth in our meeting, because one of our Company said, he was now sure that neither her Majesty's Physicians nor the Jesuits were natural Philosophers ; they might (said he) with very little Art have caused the Queen's Breasts at her Age to have swelled with Milk so plentifully, that she might have easily milked it forth in quantity in the sight of the Princess of Denmark, and all the Protestant Ladies of the Court : It may be done (said he) in rational or animal Creatures ; and he gave us Instances of undoubted credit, wherein it had been done to his knowledg, and a Child suckled : and to divert us he offered to shew it in an Animal, he having also tried that Experiment, and thereby milked out the Milk from a young Creatures Udder that had never been with young. Another of the Company said merrily, if that were so easie an Artifice, he wondred that the *Romish* Priests had not learned it, since it's known to the World that they have long had the Art of keeping the Virgin Mary's Milk above 1600 Years, and of multiplying the quantity of it from Horse-loads to Cart-loads, to disperse among their credulous Vulgar.

We humbly pray your Highnesses Pardon, that we seem herein less serious than so great a Matter requires ; we speak only the words of truth and soberness, but the comical Tricks of the *Romish* Priests (that commonly end in Tragedy) force us to represent them as they deserve.

There's another known Sign and Testimony of a Woman's Pregnancy, that is, the sensible stirring of the Child in the Womb, that was expected her Majesty should have shewn to the Ladies with Joy, especially to those Protestant Ladies of

*Manifest
Signs
wanting.*

her Bedchamber, that doubted (with the Protestant Doctor her then Physician) her being with Child, as far as they durst; when the quickning of a Child in her Womb was pretended, and published throughout the Kingdom, it had been a pleasure to her Majesty, and no trouble (if it had been real without deceit) to have shown the motion of a Child in her Womb to honorable Matrons of her Bedchamber, that might have been in all respects lawful Witnesses of that Truth to the justly jealous Kingdom; these might have touched her Belly, and had been proper Judges from their experience of the true motions of an Infant in the Womb; and some of Consanguinity to the Heiress apparent might have been admitted to that Favour, as our Laws and common Prudence directed, for removing the Causes of Jealousy; but however industriously her Majesty's quickning with Child was spread abroad, yet the feeling of its Motions was never vouchsafed to any competent Witnesses of it, to give the suspicious Kingdom a ground to believe that she was with Child.

The next visible and manifest Sign of a true natural progress of a great Belly, is the distension of all the parts of the Body, that incircle and encompass the Womb. Such is the place and manner wherein Nature hath prepared the lodging of the growing Child in the Womb, that according to its growth and increase, and the quantity of Liquors that are there naturally and necessarily congested, so are all the circumambient Parts gradually extended and enlarged to make room; there never was, nor naturally can be an Extension only of the *Peritoneum*, the Rim of the Belly to give room to the Child; all Naturalists and Anatomists know, that in that manner no Child could keep its natural Situation in the Womb, nor be born alive.

All Men and Women that ever observed Women great with Child, know that all the parts that inclose the Cavity, swell until the time of their delivery approach. But this natural necessary sign of Pregnancy so intirely failed in her Majesty, that skilful Spectators of both Sexes wondered, that better Arts were not used to make that visible Sign and Appearance of the growth of a Child in her Womb. We were satisfied by skilful Matrons of great Experience, that attended on purpose to observe her Majesty exactly, that all the outward parts of her Body, that encompass the Womb, were of the same proportion that they were at other times, save only her Belly which was exceedingly coppled up, and high, that shewed like a great bellied Woman to them that looked upon her Majesty before; but said they, when we saw her Majesty walking, and looking upon her behind, and on each side, we saw not the least appearance in her of a great bellied Woman. We took care to have the fashion of her Majesty's Body observed by skilful Women at several periods of time during her supposed Pregnancy, and once a very short time before her pretended Delivery; and we had always the same Account we have here faithfully given your Highnesses.

We compared this Circumstance with another that we had marked, whereof we had from time to time full assurance during all the four last Months of her Majesty's supposed being with Child; those being the Months wherein usually all the circumambient Parts of the Womb swell most, we were very well informed that in all these Months her Majesty, contrary to her former usual Course, always withdrew from her Chamber, and retired into her Cabinet, or some other private Room, with two or three *Italians* when she changed her Linen, and would never permit any one of the Protestant Ladies of the Bedchamber to see her change her Linen, as they had constantly done.

Those two Circumstances explained each other, and plainly shewed that the natural, naked and true shape of her Majesty's Body, as it was then, was not to be seen by those that were not of the Confederacy in the intended Imposture; those that were only capable of being lawful Witnesses for her Majesty against common Fame (if Fame had belied her) were all excluded from a possibility of seeing whether her Belly was truly and naturally great, and a few Foreigners of no Quality were only to keep the Secret of what her Majesty was to make the coping Belly.

No appearance of Conception, Pregnancy, or Delivery.

Nothing can be more manifest than it is by all these Circumstances taken as they ought in connexion each with other, that there hath nothing appeared of the natural plainness and simplicity that always accompany Truth in the whole Demeanor of her Majesty from the time of her pretended conceiving a Child to the very time of her feigned Delivery of this supposed Prince of *Wales*; all that hath been acted in the matter, hath plainly imported Trick and Design to hide and smother Nature's Works, that ought to have been most freely exposed to

to the whole World, if there had been any Truth in the Pretences that could have born the Light. We may securely affirm to your Highnesses, that in all the eight Months and four Days first reckoned to have been the Time of her Majesty's Pregnancy, or from the time of her going to *Bath* in the new Reckoning, there never have been any of these constant natural Signs in her Majesty that could afford to any understanding Men or Women a ground to believe that she conceived a Child.

The progress towards finishing the intended Imposture of this Prince of *Wales* hath been answerable to its beginning. In the preparation for her Majesty's supposed Delivery, there hath been no regard to the Rules of natural Equity or Law, or common Prudence; nor any appearance of that open freedom and naturally plain proceeding that ought to have shewn that they did not fear the Kingdom's or the World's knowing the Truth of all that should be done in that pretended natural Work of bearing a Child, wherein the whole Kingdom and so much of the World was concerned. If the Customs and Laws of *England*, or natural Equity had been consulted in the Circumstances of the Case about the preparations needful for her Majesty's expected deliverance of a Prince, the first of all Advices had certainly been, to give early notice to your Highness, and to others in the nearest possibility or expectance of succeeding to the Crown, of the Time of her expected Travel and Deliverance of a Prince, and of the place of her Residence at such a time; that proper noble Matrons and others might have prepared themselves, and attended there, and have been present in their behalf, which might have suppressed and silenced for ever by their Testimonies, all suspicions of Fraud or Imposture.

But 'tis not only undeniable, that no such notice was given, either to her Royal Highness or to any of Consanguinity with her, nor to any other of the Noble Matrons of *England*; but such Artifices were used as might most conceal the Time and intended Place of her pretended Travel, such feigned time of her supposed Conception was published by the King and Queen, that neither her Royal Highness, nor any of the Nobility, could possibly foresee the Time when the Comedy that is now said to have been acted, was to begin.

Her Royal Highness had no notice of it.

The Place where her Majesty was intended to lie in was kept in such uncertainty, and often published so variously, sometimes that it should be at *Richmond*, sometimes at *Windsor*, another time at *Hampton-Court*; that none of the Nobles of either Sex, that were of the Kindred and Friends of the Heir apparent, nor of the Protestant Nobility, could know how to prepare themselves for attendance on her Majesty, as was their Duty to their Majesties, her Royal Highness, and the Kingdom.

As the publication of the Place was often changed, as if a surprise in the place was designed, so at last such a sudden and seeming hasty Resolution was taken a day or two before her pretended Delivery, that her lying in should be at *St. James's*, tho none expected the Time to be near by above three Weeks; that Commands were given for preparing her Lodgings there so hastily, that when her Majesty said on the Friday, she would lie there on Saturday, and it was told her, it was not possible her Lodgings should be ready; She then said, she would lie there on the Floor.

It was hoped by all the Protestants that the Princess of *Denmark* would have been a faithful Watcher for her own sake, when the time of her Majesty's Deliverance of her great Belly should come; tho she had not been able, or she durst not give them advice of the Occurrences in the time of her Majesty's supposed Pregnancy, it was thought that it could not be avoided but she would be present to see what was brought forth, whether any thing or nothing. But care was taken, that advice should be given her when she wanted astringent Medicines, to go to the loosening Waters of the *Bath*, to keep her fourscore Miles distant till the pretended Prince should be born.

At the first Notice we had of her Majesty's passionate Declaration, that she would lie at *St. James's* on the Saturday Night, we could not conjecture that there was to be a pretended Prince brought forth on the Sunday; nor was there any Whispers of it, or the least natural, feigned or counterfeit sign of fore-running Pains of a Woman, whose time of Travel approacheth. Her Majesty was late in the Night at Cards, and no appearance of an indisposition then, nor is any pretended to have been in the Night; but we learned by the Event on the Sunday the reason of her Majesty's fixed and immoveable Resolution to lie at *St. James's* on the Saturday Night, she was it seems to bring forth a Prince on the Sunday.

Circumstances to render it suspected.

Time.

There was a cunning contrivance to chuse a fit time of that day ; it was to be between the hours of nine and ten in the Morning, that all or most of the Protestant Ladies might be at Church, and the Trick be over before their return ; and that the Midwife Mrs. *Labady*, and the Favorite Mrs. *Tourain*, might have Freedom and Secrecy, as they had, to act their Parts in the bringing forth of a supposititious Prince.

The Place.

The Room also that was chosen, wherein the Trick was to be acted, was fit for the Purpose, and contrary to the Rules of common Prudence in a Case suspected for setting up a supposititious Child, and ought to have been avoided, if their meaning had been just and good ; there was a private Door within the Rail of the Bed into a Room, from whence a Child might be secretly brought and put into the Bed, unseen by any that should attend in the Queen's Room, tho at the feet of the Bed (none of them coming into the Rail) and by that Door the three Confidants, the Midwife, Mrs. *Labady* and Mrs. *Tourain*, brought into her Majesties Bed what they pleased unseen.

If they had wanted no secret conveyance by that Door, common Prudence required that they had nailed or sealed it up to avoid confirming and increasing the Kingdoms just and known Jealousies, of imposing upon them a counterfeit Prince, when it should be known, that there were such secret ways as made it so easy to be done by Confederation, undiscerned by others that were in the Room ; but it appeared by the Event that the Privy Door was so necessary for the designed Imposture, that all the Transactions of it were managed by that Door, as is well known to all those Lords of the Council that were brought for a Shew, not to see any thing that was done, but only to be seen in the Bed-Chamber with his Majesty, that their Names might be published to the People, as if they had been Witnesses of the Queen's being delivered of this pretended Prince.

Provision the Law makes in such Cases.

The Civil Law provided, as a Rule of common natural Equity, when a Woman was to be delivered of a Posthume Child, that might defeat another appearing Heir, that the Chamber wherein she was to be delivered should have but one Door ; and if there were more, that they should be sealed up with the Seals of both Parties, and that Keepers should be set at the single Door, and no Woman suffered to enter till she was searched in all kinds, that no Child might be conveyed to the Woman in her real or supposed Travel. And tho we have no express Statute that gives direction in such Cases, yet our Common Law abhors all appearance of Fraud about Inheritances, and hath appointed twelve of the most able Neighbours to judg of all the Signs and Appearances of Fraud, and setting up counterfeit Heirs, who may also judg upon presumptive Evidence, and reject any pretended Heir, where they see signs of Fraud and Imposture whereupon to ground their Judgment ; and every one must at his peril take care that there be no grounds of suspicion given of a supposititious Heir.

We have faithfully shewed Your Highnesses what were the Preparations for her Majesties supposed time of Travel, wherein there appeared no Marks of an Intention to deal uprightly and openly with her Royal Highness as Heiress apparent of the Crown, and with the Subjects of the Kingdom ; nor were there any natural Signs that her Majesty really feared or expected the common Sorrows, Pains and Danger of a Woman in Travel, or made any futable Provisions.

We cannot learn, that there were in readiness so much as the usual Instruments of Midwives, whereupon they commonly place all Women of Quality in their time of Travel ; that such Assistance may be given them by the Matrons and Midwives, as is not possible to be given on their Knees, which is the common Posture of meaner Women ; and least of all as they lie in their Bed, which is seldom used until the length of the Travel, and Failures of Strength enforce it : There being many natural Reasons for the Posture of the Womens Bodies helping them in their Travel.

Physicians to be near.

Amongst other futable Provisions, it had been certainly fit that a College of Physicians had been called to attend somewhere near to her Majesty, if She had not known there could be no need of them, and had not been sure there could be no hour of danger to her self in a feigned Travel, nor any sudden need of Physicians Advice or help to a strong lively supposed Prince, that was intended then to be brought forth.

As all the Preparations for her Majesties supposed time of Travel, discovered to knowing and observing People that there was no reality in her pretences made of a great Belly ; so the Fiction and Fraud was made more manifest when the Trick came to be acted.

Her Majesty lying in Bed with all the Curtains round close drawn, all that was pro-

provided belonging naturally to a Child, and intended to be used by them, in their bringing forth a supposititious Prince, being prepared and ready within the inner Chamber, then her Majesty's feigned Travel began; and all these things were, by the help of the Midwife, Mrs. Labady, and Mrs. Tourain the Confederates, brought through the Door in the Wall by the Queen's Bed, and put between her Sheets; that is, a Child and all that naturally attends a Birth. Then the Midwife and the Confidants seemed very busy about her Majesty in the dark; none seeing what they did, and being afraid, as appeared by the Midwife's Words, that the Child, which was prepared to sleep, to prevent its crying before it was got into the Bed, should be stifled by the Closeness of the Bed, they were forced to hasten the Queen's pretended Delivery even beyond what was reasonably to be believed, notwithstanding all that could be said of the Lady of Loretto, or any other Saints Assistance: therefore the Queen's supposed Deliverance was in very short time.

Other Circumstances of the doubtfulness of the Delivery.

But nothing appeared in her Majesty like the real natural Travel of a Woman in Child-bearing; there were none of the usual natural Signs in her Majesty of being in real Travel, which cannot be hidden; there was no Appearance of an approaching Travel by various intermitting Pangs, usually very great by the Infants struggling to free itself of the Womb; no shew of the Pains naturally and gradually increasing as more of the Ligatures came to be broken or rent, whereby every Infant is safely retained in the Womb, until its full growth and appointed time; there were no Signs of her Majesties known Weakness in bearing such Pangs in her State of Body, debilitated with long lingering Infirmities; there were no Signs of a violent Eruption of an untimely Birth from the Womb of eight Months and four Days, as her Majesty then reported it to have been.

All that was to be feigned was suddenly dispatched, and the Midwife delivered something close covered to Mrs. Labady, which could be nothing but the Child they had put in; and went with it together through the privy Door in the Rail of the Bed into the next Room in so great hast, that it was not considered how plainly it might discover that it was a mere feigned counterfeit Travel of the Queen, if the Midwife durst quit her attending and assisting her Majesty in those moments, when there was the greatest necessity of her Skill and Assistance in her Office, and the most extreme danger of her Majesties Life by any neglect of her, if she had really brought forth any Child, as they were obliged to pretend.

Persons attending and assisting.

Instead of fair open freedom in shewing that the Queen was really delivered of a Prince, which our Customs, and Laws, and natural Equity required, that all those Works of Nature might have been seen and testified by noble Matrons; their pretended Birth of a Prince, and all that they did about it, was done in the dark, with the Curtains close drawn round about the Bed, and under the Coverings of it; and none of either Sex permitted to see any thing done about her Majesty, or her supposed Child, save only the Confederates; no others of those in the Bed-Chamber, that drew as near as they might, were suffered to see what was taken out of the Bed, being something wholly covered, and immediately carried away by the private Door.

All hearkened after the common and most constant natural Sign of the Birth of a living Child, that is, its crying: but we are fully assured from divers Lords of the Council, and others that were in the Bed-Chamber, that the crying of a Child was heard by none there, when the pretence was that a Child was born; tho the Midwife would not at first say it was a Prince.

No crying of the Child.

We have related to your Highnesses no Circumstances but such as are notoriously known, or could be judicially proved before any impartial Court of Judicature; and therefore we will not offer to your Highnesses those Conjectures (tho we have them from good hands) of what was acted about the pretended Prince in the Room from whence he was brought, and to which he was carried, before the Lords of the Council, or any others were told that there was a Prince born: but we have it of certainty from those that were present, that during the whole fictitious Travel of the Queen, and a considerable time after it, his Majesty kept those Lords of the Council that were called, not far from the feet of her Majesties Bed, that were close shut up; they neither saw nor heard any thing about the Birth of the supposed Prince, whereof they can be lawful Witnesses to the Kingdom: yet the Actors of this whole Imposture had the Confidence to publish forthwith to the Kingdom by Authority, that those Lords and many Ladies of Quality were present at the Queen's Delivery of a Prince, equivocating therein like the Jesuits, and falsely insinuating to the People, that those Lords, and many

many Matrons of the Nobility had been such ocular Witnesses as our Laws require of the Queen's being delivered of a Prince; whereas in truth all that were not of the Confederacy waited to no more purpose than if they had been ten Miles off her Bed-Chamber.

Circumstances that followed the Queen's supposed delivery.

After long waiting, his Majesty left them, and retired into the inner Room, where were Mrs. *Labady* and the Confidants with the supposed Prince; and it was soon after said to the Lords, that a Prince being born, there was no more need of them; whereupon several of them went away, and whatsoever was done in shewing a Child to those that staid, was not worthy of our Inquiry, since it could be of no use to your Highnesses or the Kingdom.

Yet we carefully observed and inquired after the Queen's supposed Deliverance of a Prince, whether there were any natural demonstrable Signs in her Majesty that she had newly born a Child, that had broke its way by Violence into the World before Nature's time, as she then affirmed. Some of us know well the usual and necessary Consequences of such Force upon Nature in Women of such Tendernefs and Weaknefs as her Majesty; we expected to have heard of her great Weaknefs, and danger of her Life by a Fever that commonly attends such untimely Births; we inquired after the Danger of her Majesty's Breasts by the usual redundancy of Milk, because one had reported so long before, that she had plenty of it in her Breasts; we imployed proper Persons to ask what Woman had the Honour to draw her Breasts or whether any Applications were made to her Breasts to repel or dry the Milk; and also to ask after the good Progress of her Majesty in the natural Cleansings that follow Child-bearing, and of her strength in bearing these unavoidable Consequences, whereby all Women of her Majesty's Tendernefs and Weaknefs are greatly debilitated: but we could never learn by our most diligent Inquiry that there was any appearance of these natural Effects of Child-bearing; tho a good Doctor's Skill might have easily feigned all those to the Delusion of all about her Majesty's Court.

We have now given your Highnesses an Abstract of many of the Circumstances which we had collected in this Affair, and must freely affirm, that we cannot observe from the beginning to the end of it one footstep of sincere plainness; all that hath been done therein from the Queen's pretended Conception to her supposed Delivery of a Prince, hath shewed desires and intentions to hide the truth of those natural things which they were obliged by the Laws of *England*, by natural Justice, and by their own Honour and Interest to have made demonstrable or proveable by sufficient Witnesses to all the Kingdom, if there had been truth in their pretences.

Rules of Law and Justice neglected.

There hath been such a total neglect, slighting and disregard of all the necessary Rules of Law and Justice about needful Witnesses of the Birth of a Prince and Heir to the Crown (when they knew that most of the Kingdom suspected their setting up a Counterfeit) that it looks like a Contempt of your Highnesses and the whole Kingdom; as if no Satisfaction was due to her Royal Highness in her admission of an Heir to the Crown before her, nor to the Kingdom in their acknowledgment of a Prince to be the next Successor to the Crown.

The most modest Judgment we can make of it, is to think that a blind Zeal (always nourish'd by the *Romish* Church) to settle a Popish Successor, hath made them break through all the Rules of Righteousness, and stifle and extinguish all the natural Affections of a Father to a Child, to do a Service to their Church, which is by their Doctrine so meritorious.

Your Highnesses will the better consider all these Circumstances mentioned, if you will please to call to mind the Occasion and Time when this Design was first resolved on to set up a Prince to bar her Royal Highness of the immediate Succession to the Crown.

Preparations for the belief of a Prince of Wales.

Be pleased to remember, that 'tis before observed, that the going to the Bath, and the visit to St. *Winifred's* Well, and the Present made to the Lady, were preparations for a Report of the Queen's being with Child, and were all concluded upon about the end of *August* and beginning of *September* 1687; and then was your Highnesses Compliance with the Popish Design despaired of.

Endeavours to persuade the Pr. and Princess of Orange to repeal the Penal Laws.

The abstract of Mr. *Steward's* Letters to *Mijn Heer Fagel*, which we just now find printed, confirms all our Memorials in that Matter. He was pardoned and chosen by the King to have persuaded your Highnesses to a consent, that the Penal Laws and Test should be repeal'd, which had been a full establishment of Popery. In his two first Letters of *July*, he seeks to persuade your Highness that the King was resolved to preserve, and observe the true Right of Succession to the Crown, and

and was very desirous of your Highnesses Consent and Concurrence in his Design, and troubled to find them so averſe from it. In his next Letters of the ſame *July* he preſſed, that your Highneſſes ſhould have been diſpoſed to hearken to a well-choſen Informer to be ſent by his Maſteſty to perſuade your Concurrence with him; and he preſſeth extremely for a haſty Answer: the new Councils for ſetting up a ſuppoſitious Prince ſeem then to have been begun.

That Letter ſeems to threaten what we now ſee, if your Highneſſes reſuſed; he doubled his aſſurance to him that was to ſolicit your Highneſſes, that if you were obſtinate (as they call it) it will be fatal to the Diſſenters, and he feared productive of Ills yet unheard of: And his Letter of *Auguſt 5.* ſeems to give your Highneſſes your laſt time to chuſe the Settlement of Popery, or to reſolve to be true to the Proteſtant Religion.

He ſays, If your Highneſs did what was deſired by the King, it was the beſt Service to the Proteſtants, the higheſt Obligation on his Maſteſty, and the greateſt Advancement of your own Intereſt, that you could think on; but if not, then all is contrary. There can be no other meaning in ſaying, if your Highneſſes reſuſed all is contrary, ſave only this, that the Proteſtants ſhould then have no Mercy from the Papiſts; his Maſteſty would be ſo offended that he would become your Highneſſes Enemy; and it would be the loſs of your Highneſſes greateſt Intereſt that you can think on, which certainly could be no other than the juſt Expectancy of the three Kingdoms.

As theſe Letters threaten that the King would deſtroy your Highneſſes greateſt Intereſt if you reſuſed, ſo the attempt of it ſoon after appeared.

It's now known, that in *September* and *October* the Reſolutions were taken to publiſh that the Queen was with Child; but before it was publicly declared, that is *October 8.* Mr. *Steward* ſays, he would uſe no more Arguments to your Highneſſes; but he then laments your Highneſſes loſs of the time of compliance: Alas, ſaid he, that Providence ſhould not be underſtood. Then in *November* he ſpeaks more plainly (notwithſtanding your Highneſſes moderation towards the Papiſts, and their Liberty was ſhewn by *Mijn Heer Fagel's* Letter) he ſays, That all hope of your Highneſſes concurrence in the King's Deſign was quite given over, and Men were become as cold in it here, as your Highneſſes were poſitive there: And upon his new Conference with the King, he not only ſhews the King's diſlike of that Letter, but ſays expreſſly, That your Highneſſes Answer was too long delay'd, and that the King was quite over that matter. There can be no other reaſonable Conſtruction of this, than that the King had then reſolved of another way to proſecute the Popiſh Deſign, and time hath now ſhewn and proved to the World that the way reſolved on was to ſet up this ſuppoſitious Prince for a Popiſh Succeſſor.

Monſ. Fagel and Mr. Steward's Letters about the Teſt.

Theſe Letters, by the help of time, ſhew the Deſign when it was in *Embrio*, and help to make a Judgment upon all the other Circumſtances that we have mentioned; and no doubt if an Evidence made up of all the Circumſtances we have mentioned, in their Order and Connexion, were given to any impartial Judges, it would be judged as ſtrong a preſumptive Evidence as ever was given: and in the Proceedings of our Laws againſt Criminals, Judgment hath paſſed againſt the Lives of many upon far leſs Evidence; this being as full as the nature of the thing can poſſibly ſuffer in your Highneſſes and the Kingdom's Caſe.

But notwithſtanding this ſort of circumſtantial Evidence be ſufficiently forcible and convincing to diſintereſted Perſons, to prove this ſuppoſed Prince to be an Impoſtor, and it may be more Circumſtances of the ſame nature are known to your Highneſs, yet we moſt humbly pray your Highneſs to wave inſiſting upon any of them as entirely, as if you could neither prove nor know more about this pretended Prince than common Fame hath proclaimed, without Contradiction.

It no ways belongs to your Highneſſes, nor to the Kingdom, to prove the Falſhood of his Pretences, or any Circumſtance about his Birth; and it would be very prejudicial for your Highneſſes to take upon you the burden of producing Witneſſes and Proofs, and admitting your Highneſſes Adverſaries to diſpute their Force and Sufficiency, when it belongs to them wholly and only to bring forth ſuch lawful Witneſſes in due numbers, as may ſaſtify your Highneſſes and the Kingdom of the Truth of their Pretences; and 'tis an infinite Wrong to your Highneſſes and the Kingdom, that they have not done it long ſince, if there had been a true Prince born of the Queen.

Since

What is fitting for their Royal Highnesses to do in the Case.

Since 'tis the Kingdom's great concern as well as your Highnesses, we are the bolder to propose, that the Method of Defence against the publick Injury be made according to the known Laws and Customs of *England*; that is, That an open free Demand be made in the name of her Royal Highness, as Heiress apparent of the Crown, and in behalf of all the People of the Realm, that there be forthwith declared and published to the Kingdom a sufficient Number for this Case, of lawful Witnesses of either Sex, such as the Laws of *England* and natural Justice require in the Case, who do testify, that according to the usual practice of their respective Sexes at the Birth of Princes, Heirs to Crowns, they were Eye-Witnesses that the Child now called the Prince of *Wales* was naturally born of the Queen's Body.

'Tis but just, regular and modest for your Highnesses to make that Demand; and your insisting upon it to be done immediately, without the least delay, is no more than the Right of your Highnesses and the Kingdom, as must be confessed by all that either know the Rules of natural Justice, or the Laws of *England*. Our Laws require and demand an entry to be made upon all Intruders into the Rights or Inheritances of another; there ought to be legal Interruptions made of all wrongful Possessions however obtained. A long Permission of an illegitimate Child to pass for a legitimate Heir, is of dangerous consequence to the true Heir of an Inheritance; 'tis a known Rule both in our *English* Laws, and the Civil Laws, *Tacens longo tempore præsuntur consentire*; he that remains long without answering any thing to an Intruder's claim, seems to allow it.

We crave pardon that we must freely tell your Highnesses, that it hath been our astonishment that your Highnesses have been so long silent, and have deferred to make your just demand, and that you have so long suffered her Royal Highness's Chaplains to pray publicly for this supposed Prince of *Wales*.

Your Highnesses Heart cannot desire the God of Truth and Righteousness to prosper such an Invasion of your own and the Kingdoms Rights, nor to bless the Impostor as such, being set up (tho an innocent Child) to be a Tool in the hands of others to destroy the Protestant Profession, your Highnesses Claims to the greatest Inheritance, and the best Civil Government known in the World. We believe your Highnesses to be true Christians, that tremble in the Worship and Prayers before the Eternal Majesty; and therefore hope such a Shew of owning him will not be longer suffered to be acted before the great God that searcheth all the hearts of Princes and Subjects.

If your Highnesses shall first make this legal Demand proposed, and Satisfaction therein be not given by the Maintainers of the supposed Prince, without delay, then natural Justice and our Laws dictate, that your Highnesses demand a retraction by the publick Ministers of the King in all Christian Kingdoms and States, of the false News they have published of the Birth of a Prince of *Wales*, and their Vindication of her Royal Highness's Right apparent to the next Succession of the Crown.

The practice of the Law in such Cases.

When a wrongful Claimer to be Heir of any Inheritance cannot prove his true Descent, the Court wherein he sues his Claim, not only rejects and damns his false pretences, but openly declares the counterfeit Tricks or Forgeries that they observe to have been attempted to support the false Claim; and our Laws enable the Heir that hath been disturbed, to demand by his Action against the false Pretender, Satisfaction for the scandal of his lawful Title; and further require his Prosecution for Justice against all the known Confederates in that intended Wrong and Fraud, for their several Crimes therein committed.

We are sensible, that most Catholick Princes have a prejudice to us in the Rights we claim as *English* Protestants, not knowing our Laws and Liberties; and we have therefore propos'd these two Demands to be first made by your Highnesses, in the behalf of her Royal Highness and the Kingdom, that we might convince them that we have Reason and Justice, according to their own Laws and Rules of Right, to seek your Highnesses Protection against the King's Practices (as they yet appear) in forcing us to stoop to a counterfeit Prince, and to change the Succession of the Crown and the whole Government; your Highnesses having therein a joint Concern with us; and our Laws, and Nature it self, call upon you to defend your own and the Kingdom's Right, to preserve the Succession of the Crown as it is by the Laws established, which the King had no pretence of Power to change.

But

But we must also humbly fly to your Highnesses to protect us against the horrible destruction made by the King of all our Laws for the Reformation of our Christian Religion, and our Security against the open professed and mortal Enemies of our Liberties therein, the King having declared to the World, that those Laws shall never hereafter be put in execution; and to make our Case therein desperate, hath caused his Judges to justify him in what he hath done.

Recourse to
their Royal
Highnesses
for their
Protection.

We must also pray your Highnesses help against his Invasion of all our Civil Rights and Fundamental Liberties, and his utter subversion of the Free Government of *England* by its antient Customs and Laws.

We cannot doubt but your Highnesses will be convinced by this Memorial, that we have not complained of our Oppressions until they are become intolerable; nor sought any Relief (save from God alone) until your Highnesses justly expected Inheritance, and the very Being of our Civil Government are in the most extreme danger of utter ruin.

We are and have been truly Loyal to the King, and never refused obedience to any of his legal Commands, or any whatsoever that could consist with all our other Duties to God and our fellow Subjects. We have been content to suffer personal Wrongs and manifest Injustice, and considered the Corruption of Men, that Abuses and particular Wrongs will happen in all Governments, and ought patiently to be born, whilst the Fundamentals of Civil Government and Justice are sacredly preserved. Our Christian Charity taught us, that 'tis better that a few suffer Wrongs, than to hazard for their just Relief more effusion of Blood, or other Mischiefs, than can be recompensed by their obtaining Right. We know the Jesuits Crafts might have clouded the Justice that might have been demanded in particular Cases; and we have therefore staid until the Justice of what we pray, is become demonstrable to all that are not corruptly and wilfully blind, or led blindfold by the Jesuits or *Romish* Priests.

We are sensible that the King hath used the Name of the Royal Authority and Prerogative in all the lawless Powers that he hath exercised; and we durst not pray your Highnesses Aid against his doings, if there could be reasonably any Doubt or Question, whether the things he hath done, and daily doth, might be authorized by the Royal Powers and High Prerogatives which belong to the Kings of *England*.

'Tis most unquestionable, that the noble *English* Monarchy and Government had a legal Foundation, and was and is established upon Customs, Franchises and Laws peculiar to the *English* Nation. It was always free and independent upon all the Powers and Potentates on Earth: the Kings and the People are, and of right were always free and absolute to bind themselves by their own Laws made by their joint Consent, and not otherwise; they could never be bound by any others than themselves, save only by the Laws of the most high God.

A King of *England* ceaseth to act by the *English* Kingly Authority, or as a King of *England*, if he yield up himself or his Subjects to be bound or subjected to any other Laws, Canons or Jurisdictions, than such as are made or freely received by the mutual agreement of the King and the representative Body of the Realm in Parliament.

'Tis declared in the Stat. 16 R. 2. 5. that the Crown of *England* had been so free at all times, that it hath been in subjection to no Realm, and that the same ought not in any thing touching the Regality to be submitted to the Bishop of *Rome*, nor the Laws and Statutes of the Realm to be by him frustrated or defeated at his Will, to the perpetual destruction of the King's Sovereignty, Crown and Regality, and of all the Realm. The Commons then prayed the King, and him required by way of Justice, to examine all the States of the Realm how they would stand to defend the Rights of the Crown and the Realm against the Pope; and it was thereupon ordained, that all that should pursue or bring any Bulls or Instruments from *Rome* against the King's Regality or his Realm, should be put out of the King's Protection, and incur a Premunire, which, as the Law then was, made it lawful for any Man to kill them.

Crown of
England
always
free.

Likewise the Stat. of 24 H. 8. 12. and 25 H. 8. 21. say, that the Realm hath been, and is free from Subjection to Man's Laws, but only to such as have been devised and made within the same for its own welfare, or of their free Liberty received by their Consent to them.

The King and Parliament near four hundred years since, were so resolute to defend the Rights and Freedoms of the Crown and the Realm against the Imposition

The Pope
an Enemy
to England.

sition of the Pope's Canons, and the Jurisdictions and Powers which he attempted to exercise, that notwithstanding they were Papists, yet they by the Stat. of 18 Ed. 3. Stat. 1. Rot. Parliam. num. 38. declared the Pope to be the common Enemy to the King and the Realm, and so he stands now declared: and to the like purpose is the Roll Parliament 17 Ed. 3. num. 59. Tho these Statutes are not printed, their Force is the same, to make them to fall into the condition of Enemies to the Kingdom that correspond with him or his Nuncio.

It never was in the Power of any King of England to yield up or submit the Rights of the Crown and the Realm, and its Laws, Powers or Jurisdictions of any sort, against the Will of the Realm in Parliament; so it was confess'd 500 years since; K. H. 6. in his Letter to Pope Paschal, *Notum habeat sanctitas vestra, quod me vivente [auxiliante Deo] dignitates & usus regni nostri Angliæ non immi- nuentur, & si ego (quod absit) in tanta me dejectione ponerem, Magnates mei & totus Angliæ populus nullo modo pateretur.* Be it known (said he) to your Holiness, that whilst I live (by God's assistance) the Authorities and Usages of the Kingdom of England shall never be diminished; but if I would so debase my self (which God forbid) my Nobles and the whole People of England would by no means suffer it.

K. John
surrenders
the Crown
to him.

King John indeed unworthily surrendered the Crown and Regalities to Pope Innocent the Third and his Successors; and the Priests falsely put into that Charter, that it was by the Consent of his Council of Barons, he submitted to hold the Kingdom of the Pope, and that by yearly Rent again: but when Pope Gregory the Tenth, in the Third of Ed. 1. sent for that pretended Rent, that Noble (a) Prince justly answered, that he was bound by his Oath in his Coronation, to preserve the Rights of the Kingdom untouched, and that he could do nothing that concerned the (b) Crown without the Advice of the People in Parliament, which are there called *Proceres*.

Edw. 3.
refuses.

In the 40th of Edward the Third, the Pope demanded the same Rents, and the King proposed it in Parliament, but they declared, that neither King John nor any other King had any power to put himself or the Realm and People into subjection to the Pope without their Consent in Parliament; and that if it were done by King John, it was done contrary to his Oath in his Coronation: and if the Pope attempted any thing thereupon against the King or his Subjects, they would resist him to their utmost power.

The same King Edward the Third had only negligently suffered the Pope's Power to be too much used in the Kingdom, contrary to the Statute of Carlisle, 35 Ed. 1. as appears by the Parliament Roll 17 Ed. 3. num. 59. and the Commons in Parliament complained, that the Treasure of the Realm was transported to Rome, and the Secrets of the Realm discovered by the foreign Priests sent hither: and they required of the King some Mercy, for that they neither could nor would any longer bear those strong Oppressions; or else that he would help them to expel out of this Realm the Pope's Power by Force, and thereupon were enacted against many of the Pope's Powers in this Realm those severe Penal Laws of 25 Ed. 3. 27 Ed. 3. 1. 38 Ed. 3. Stat. 2. Ch. 1. all which our King hath now declared shall never hereafter be put in execution.

That victorious Prince Edw. 3. tho a Papist, yet pretended to no Regal Prerogative of suspending the Laws made by the Kings and Parliaments against the Pope: he confesseth in that Statute of 35 Edw. 1. against the Pope's Power, that it held its Force, being not annulled by Parliament, and therefore he was bound by his Oath to see the same kept as a Law of the Realm, tho by Sufferance and Negligence it had been attempted to the contrary.

Effects of
the Power
of Popery.

If the Effects of the *Romish* Jurisdictions in the Realm were looked upon as they are related in that 38 Edw. 3. 1. it would be manifest that the King who would put the Kingdom into such a state, lays aside thereby his Kingly Office and Dignity whilst he pursues these Intentions; that Statute saith, that by the Powers exercised by the Pope and Court of Rome, and the Dependants thereof, the good antient Laws, Customs and Franchises of the Realm were greatly impeached, blemished and confounded, the Crown abated, the Treasure and Riches of the Realm carried away, the Inhabitants and Subjects of the Realm impoverished and troubled, and the great Men and Commons in Bodies and Goods damnified. Surely there can be no doubt whether the King hath any Roy-

(a) See Rol. Clar. 3 Ed. num. 9. Shed.

(b) See Cook's Inst. fol. 13.

al Prerogative to enable him either to stop the Execution of these Penal Laws that prevent the Kingdom from falling back into such a forlorn Estate, or to attempt by pretence of Liberty of Conscience for the Romish Priests and Emisfaries, and their Practices, to enable them to work all the Mischief they can against those that would save the Kingdom from such Miseries.

Your Highnesses may be absolutely certain, that the King acts not by virtue of the *English* Regal Office or Prerogatives, in his authorizing Treasons to be daily committed against the Realm. By the Statute of 13 *Eliz.* 2. they that give or receive any Absolution or Reconciliation to *Rome* by the Pope's Authority, or any of his Priests, which the King licenseth and authorizeth to be done continually, those are declared high Traytors to the King and the Realm: and no doubt Treasons declared by a Statute against the Realm, are common Nusances of the highest Nature and Mischief; 'tis the Trust of the Regal Office to prevent and punish them; and 'tis directly contrary to the Kingly Office to assume Power to authorize or license such Crimes.

'Tis unquestionable that no King of *England* ever had Power to grant Offices to Persons disabled to bear them by positive and direct Acts of Parliament made for that very purpose, and declared to be for the Peoples Security; nevertheless the King hath put most of the Offices of the Kingdom in the hands of those that are so disabled.

It's as certain it never was in the power of our Kings to dipossess at their Wills any of the Subjects of those Interests and Profits which they had for their Lives; nor to commission any to judg his Subjects finally in matters Criminal or Civil by their Discretion, without any regard to the Laws, Customs and Privileges of the Realm. *Kings of Engl. have no right to be arbitrary.*

These and many other Powers exerted by the King, which we might name to your Highnesses, are not the Actings of an *English* legal Monarch, but an assumed despotical Power over the Persons, the Liberties and Interests of the Subjects; as if he alone had at least the Property paramount in all their Persons and their Interests, which in all Civil Governments belongs only to the lawful Legislators; and as if the People of *England* were Tenants of his mere Will to what they have, and had no right nor interest in their Laws, Customs, or Franchises, nor any Justice to demand the benefit of them.

Nothing can compleat his Majesty's Renunciation of the Trusts and Obligation of the *English* Regal Office, save only that he assume (as he now doth actually) to take from the Cities and Boroughs intirely all their Customs and Privileges, and free Election of their Magistrates, confirmed to them expressly by the great Charter and many other Laws; and that he deprive all the rest of the People of their Liberty to chuse such Persons as they please, according to the Statutes, to consent for them to the Laws that shall bind them, their Estates and Lives, as he hath declared he will, and intends, and is every day doing: and then the antient rightful and free *English* Government will be manifestly and intirely dissolved, and *Englishmen* shall have no legal Right to their Estates, their Wives and Children, or their Lives.

There will be then no legal *English* Monarchy in *England*, trusted by the Laws with high Royal Prerogatives for the joint safety and benefit of the King and the Subjects, acknowledging themselves to be bound by an Oath, to maintain the Customs, Laws and Franchises of the Realm; and to take continual care for the execution of the Laws impartially for that purpose; every Man shall then have equal and eternal right to every thing as this King will, and his Popish Forces shall dispose of it, and so long only as he shall please to continue in the same Mind with the same Force.

'Tis with *bleeding Hearts* that in this manifest extreme oppression and danger we beg your Highnesses aid to defend the Rights of the Crown and the Realm.

There can be no question of your Highnesses right to defend the same, the legal Monarchy and Government by our antient Customs, Laws and Franchises, to save the antient Penal Laws against the Pope's Usurpations, and the latter Laws for the Reformation of our Religion from Popery, and to preserve the special Customs and Privileges of the Cities and Boroughs, as well as the general Customs of the Kingdom, which our Customs and Laws only have vested in your Highness, the next right Expectant of the *English* Crown, and (if no Prince shall be born) *Rege etiam renitente*, tho the King shall do all that's possible for him to hinder you. *Their Highnesses Right to come and defend the Nation and the Laws.*

If you suffer them to be destroyed, or to be disused and deemed to be of no Force, but as the King shall please by his Judges and Courts, and by all that he shall possess of the Power of the Kingdom, your Highness's Claim and Rights as Expectant of the Crown is in like manner destroyed and set aside; and the whole arbitrary Magistracy serving his Will, and all his Popish Forces, Foreigners and Natives will be engaged in Interest and misguided Conscience to oppose your Highness's Claim; by the Laws and Customs of *England* there will be indeed in the State to which the King hath brought the Kingdom, no legal Magistrates nor Government in being and use, unto which her Royal Highness can immediately succeed according to the Customs and Laws of *England*; the Kingdom must be a confused Multitude, and the strongest may subdue the rest to their Will.

As your Highnesses have a Right to save the Government by reason of your great Interest in it, so all the People have an unquestionable Right to seek your Highnesses Aid therein; and 'tis one of the principal Duties of the Christian Religion, and will be one of the best outward Expressions of their Love to God and Jesus Christ, to assist your Highness in all your righteous Ways, defending their just Civil Government, being instituted by God for preserving Justice among human Societies.

The People that love their Neighbours and Countries, as Christian Religion commands, ought not carelessly nor irreligiously to suffer their Civil Government, their Laws, and all their Rights and Interest that their Country hold by them for themselves and Posterities, to be destroyed by any Man's Will, Superstition or Ambition.

He that was at first a legal Supreme Magistrate, and ought to have been obeyed if he would have so continued, tho he had done many Injustices to particular Persons, he may cast off the Quality and Use of the Power of a *legal Supreme Magistrate*, and use and exercise Power destructive to all the Legal Trusts and Office; and then he devests himself of that Office and Trust of a lawful Magistracy, to which the Laws of God and the Kingdom require Obedience.

Right of
the People
to defend
the Govern-
ment.

The antient Kings of *England*, acknowledged the Peoples Right to save their Free Government, if any of the Kings themselves would have dishonourably parted with the Rights of the Crown and the Realm. We mentioned the Letter of *H. I.* to the Pope; and that great Prince *Ed. I.* on the like occasion of Power claimed by the Pope, not only writ to the Pope to the same effect as *H. I.* did, but by his consent Letters were written to Pope *Boniface* by the Lords and Commons in Parliament, wherein they told the Pope, that they were bound by Oath to the Observation and Defence of their Liberty, Customs and antient Laws, and would maintain them with all their Power and Force; and that they neither did nor ever would, could or ought to suffer the King tho he would, to do or any ways attempt what the Pope desired contrary to their Customs; since it would be to the Destruction of the Rights of the Crown of *England* and the Kingly Dignity, and the Subversion of the Statutes of the Kingdom, and Prejudice of their antient Liberties, Customs and Laws.

Since then your Highnesses have an undoubted Right to interpose between the King and us in your own and the Kingdom's behalf, to save our antient legal Government, and in special our (c) Laws for the Reformation of our Christian Religion, we humbly offer, that besides the former Demands about the supposed Prince, your Highnesses will please to demand and insist immovably:

Antient Go-
vernment
to be re-
stor'd.

That the antient free Government of *England* by its own Customs and Laws only, made or approved in Parliament, be immediately restored in all the parts of it, through the Kingdom; that is, that the Rights of the Crown, and Freedom of the Realm be forthwith vindicated from all the Submissions publicly made to the Pope by the King that now is, to the Dishonour and Abasement of the *English* Crown and Realm; and from all the Claims made by the *Romish* Church of any Powers and Jurisdictions whatsoever over the Christians, or Church in *England*.

That all the Laws now in force against the Admission of the Canons, and Jurisdiction of *Rome*, contrary to our Customs and Laws, and against the Maintainers of them, be forthwith declared to be put in due Execution, and all Sus-

(c) Rot. Parliament 28 *Ed. I.* see *Cook's Instit.* 2. fol. 98.

pensions of them, or Dispensations with them, without the Authority of Parliament, be declared null and void.

That the antient Customs, Liberties and Privileges of the City of *London*, and the whole Form and Course of its Government be forthwith restored, the Customs thereof being part of the Common Law of *England*, and its Liberties being established by the great Charter, and many Acts of Parliament; that the Customs, free Election of their Magistrates, and all the Privileges of all the Cities and Boroughs of *England* confirmed by the great Charter, and other Laws, be duly restored. *Illegal things redress'd.*

That legal Officers both Civil and Military be settled in all the Places of Magistracy, and all the Commands throughout the Kingdom.

That all Commissions whatsoever be forthwith revoked and declared null and void, whereby are granted any Powers of Discretion over the Persons, or Interest of the Subject, contrary to the Laws and Customs of *England*; especially the Commission for Ecclesiastical Affairs, with its monstrous *non obstante* to all our Laws.

That the Freedom of Elections, which is the Foundation of the Government, be duly vindicated, and all the most unworthy Preingagements revoked and renounced, to elect and vote as the King would have them. *Freedom of Elections.*

That the Kingdom may be restored as soon as possible to a Capacity of holding a legal Parliament, in such Form and Manner as the Laws require; by whose help the Civil Government may be re-established, and Force and arbitrary Powers therein utterly abolished.

We crave your Highnesses Pardon, that we further humbly offer to your Highnesses, that Time and Accident always made Changes in the Usefulness of Laws; and that it hath so happened in our Penal Laws made for Uniformity in the Profession of Faith, and in the outward Worship of God: Four of our succeeding Parliaments perceived the Abuse of these Laws, and the Mischief thereby to conscientious Christians, and declared their Intention of relieving them if the King would have permitted them; and they endeavoured to stop the Execution of them, and desired a Settlement of Liberty of Conscience as due to Christians.

In these Regards, and the Subversion of the whole Government since made, Necessity and Charity may have the Force of Laws to enforce the stay of the Execution of some of those Laws for Conformity, until those Matters may be settled in Parliament. *Regulations requir'd.*

We therefore humbly pray your Highness to procure, as a case of Necessity, that none be disturbed until a Legal Parliament shall have resolved the Case for the Profession of their Faith in Matters merely supernatural, or the outward Expression of their Worship, so as both terminate only in God, and neither wrong nor hurt any Man on Earth in Body, Goods and good Name, but their own Souls only, if they be mistaken therein.

We now most humbly submit our selves and all herein contained to your Highnesses Wisdom, Candor and Charity, and shall pray the just and great God to fill your noble Souls with perfect Love and Wisdom, and all the most resplendent Virtues that are fit to shine in the highest Thrones and Power that ever the Sun beheld.

Sir, The Character we have had of your Worth, makes us confident of your Faithfulness to deliver the inclosed forthwith to his Highness the Prince of *Orange*, or in his absence to her Royal Highness the Princess; we could not trust it by the Post, and therefore have sent it by an Express, which may perhaps make it longer in coming; the Messenger's only Order is, to deliver it to one of your Servants, and we confide in your Integrity, and remain,

To Monsieur, Monsieur Benting
at the *Hague*.

S I R, Your most humble Servants,
whom you may hereafter know.

F I N I S.

THE
History of the DESERTION,

Or an Account of all the publick Affairs in England, from the beginning of September 1688, to the 12th of February following.

With an ANSWER to a Piece call'd *The Desertion Discussed* :
In a Letter to a Country Gentleman.

Provida severitate cavisti, ne fundata legibus Civitas, eversa legibus videretur.
C. Plin. Paneg. Trajan. Cap. XXXIV.

To the Reader.

I Am perswaded, that those of the Church of England, who now seem discontented at the Present State of Affairs in England, are mistaken in the matter of Fact; and that they do imagine the Religion, Laws and Liberties of this Nation might have been secured to us and our Posterity, by other, and those more legal Methods.

Now if this Conceit of theirs were true, their Dissatisfaction would not be wholly unreasonable; but to me, who have considered every Step of this Great Revolution with the utmost Attention of Mind, it seems altogether false and groundless.

But whether they or I are mistaken, it is absolutely necessary that the matter of Fact should be truly and fairly stated; which cannot be done, but by representing in one View all the Papers which passed on both sides, with the Actions which hapned, the present State of Affairs at home and abroad when the Revolution began, and the temper of Mens Minds in all the Occurrences as they hapned: And this I have endeavoured to do with all the Brevity, Perspicuity and Fidelity which was possible.

As I am the first that have attempted it, so it is not impossible there may be some Mistakes, Omissions or Errors; but there is not one wilful Error; and I will rectify any involuntary Stumble I may have made, upon the first Advice of it.

To have fully cleared this Question, it was perhaps necessary that I should have begun with the Year 1660. and the Restitution of Charles the Second, or at least at his Death: but this would have taken too much time to have presently gone about it; and if I find this is well received, and encouraged, I will in a convenient time do it, especially if I may have the liberty of the Council-Book and the Paper-Office, and such other helps as are necessary.

And in the mean time, I conceive this short Abstract of the Publick printed Papers, is sufficient to convince any Man, that the Popish Party were resolved we should be Rebels, (as they now account us) or Slaves; and his late Majesty was so far prevailed upon by them, that he chose rather to Desert his Throne, than to lose all the Possibilities of establishing an Absolute Sovereignty over the Nation, and Popery with it.

I suppose it is not pretended in England, his late Majesty forfeited his Right to Govern by his Misgovernment; but that the sense of it prevail'd upon him rather to throw up the Government, than to concur with an English Free-Parliament in all that was needful to re-establish our Laws, Liberties and Religion: and this is a proper legal Abdication, as it is distinguished from a Voluntary Resignation on the one hand, and a Violent Deposition on the other.

He was bound to govern us according to Law, and we were not bound to submit to any other than a legal Government: but he would not do the one, and saw he could not force us to submit to the other, and therefore deliberately relinquished the Throne, and withdrew his Person and Seals; dissolving (as much as he could) the whole Frame of our Government.

The Reader may observe, tho' He gave Reasons why He withdrew the second time, He never gave any why He went away at first; nor can any be assigned (as I verily believe) but that which I have expressed.

Now if this be the true state of this great Affair, then we were legally discharged of our Alle-

Allegiance to James the Second, the Eleventh of December last past; and His Return afterwards, which was forced and involuntary, could have no Influence upon us; and if He were now to be restored again, He must be recrowned and sworn de novo, as Henry the Sixth was after He was restored by the Earl of Warwick.

There may possibly be some few Men so superlatively Loyal, that rather than they would not still be under the Government of James the Second, they would throw up all the English Liberties and Privileges, and submit to an absolute and unlimited Sovereignty, either out of Scruple of Conscience, Vanity or Humor. Now to these I have nothing to say, but that if they are willing to be Slaves, they may; but it is unreasonable that they should enslave all the rest of the Nation too; and as the Number is not great, so I am perswaded (if Patience and gentle Methods are used) these Men will in a short time be convinced by their own Interest, and acquiesce at least, if they do not heartily joyn with the rest in the Defence of the present Government.

As to the small Piece which I have answered, I cannot but admire at the Encomiums have been given it: I hope there is nothing in it worth regarding, which I have not fairly answered; at least I am sure it is very answerable, it being wholly founded on Mistakes, either as to the matter of Fact, or the Laws of England. But be this as it will, I submit it to the Reader to judg between us. April 6th. 1689.

The INTRODUCTION.

THE late Transactions of that part of our Nation, which have espoused the Interests and Principles of the Church of Rome, are so full of Wonder, that I perswade my self, Posterity will look upon the Story of the last ten years as a mere Romance; and will very hardly believe so small a Party durst attempt, or so great a Body would ever so long suffer what we have born with a Stoical Patience, I had almost said Insensibility. But then this Assurance was not owing either to their Courage, or their Cunning, but a strong Perswasion, that how ill soever they used us of the Church of England, the Doctrine of Non-resistance would keep us in awe; and if the other part of the Protestants should offer to rescue the Nation out of their Claws, our Zeal for the Monarchy and the Royal Family would have the same effect it had in the Monmouth Invasion, and end in the Ruin of them.

However, to prevent the worst, they resolved to keep up a numerous Army to suppress betimes any Party that might stir in the Nation; and to fix them the more to their Interest, they not only exempted the Soldiers from the Civil Jurisdiction, but suffer'd them to outrage and injure whom they pleased, almost without restraint. Standing Army.

To divide us yet more, they procured a Toleration for the Dissenters, and made such fulsom Applications to them, and they again returned the Complement in such Rhetorical Addresses, that it was verily thought the Church of England Party would very easily have been given up for a Sacrifice to the kind, sincere, well meaning Catholics. Toleration.

But our Dissenters were not so easily wheedled into a forgetfulness of what they had so lately suffered; and altho they gave the Fathers many good words, and fair Promises, yet when they had opportunity, they gave such bold hints of their Resolution to defeat the Expectations of these Gentlemen, that I protest I wondred at nothing more than to see them so far infatuated, as to believe they should ever reap any Advantage from our Non-cons. Dissenters refuse compliance.

They were however ingaged, and therefore they must go on, be the Event what it would: And finding it would be a work of time, and that it was not possible James II. should live to see it effected, and that after his death the Succession of the then Princess of Orange would put an end to all this Babel of Confusion they had with so much Labour and Hazard erected; they resolved in the next place to take care for a Catholick Successor to finish this great Work. And in truth it was a Project worthy of such bold Undertakers, if they could have as easily deluded the English Nation, as they frequently do those who have a mighty fondness for Miracles, and had rather be deceived than find out the Legerdemains of the Priesthood: But then this was so highly improbable, that I wonder they ever entred into it; and that none of the Fathers have yet told us, that we ought not to think it

Catholick Successor necessary.

it possible for them to be such Fools as to attempt to impose in a matter of that Consequence upon so learned, so curious, so distrustful and fierce a Nation as this of *England* is: I assure them this Argument would have more force than all the Depositions they have printed in that case, and engage many to espouse their Quarrel out of pure Piquantry.

How far they might yet have gone, and what would in the end have been the consequence of this formal Plot upon our Lives, Liberties, and Religion, is known to none but God: They looked upon the Protestant or British Interest in *Ireland* as wholly at their Mercy: *Scotland* was in such a condition, that nothing could be begun there, which would not terminate in the ruin of the Undertakers: And *England* was so divided in Interest and Religion, that they expected a considerable Body of the Protestants would lend them their assistance to ruin the rest, and therefore call'd them their Scaffolds. *France*, the most Potent of our Neighbours, was apparently engag'd in the same Design: *Denmark* and *Sweden* engag'd against each other in the Quarrel of the Duke of *Holstein*: The Protestant Princes in *Germany* were either awed by the *French*, or divided between the Northern Crowns: *Spain* was weak, and unable to defend it self, and too Catholick at last to espouse heartily the Interests of a Protestant Nation against a Roman Catholick Prince; so that they had nothing to fear but the States of *Holland* and the Prince of *Orange*: And they looked upon the States as a knot of Merchants more intent upon their Trade, than concern'd for the Fate of *England*; and yet if they should attempt any thing, *England* and *France* by Sea and Land would easily reduce them into the same state they were in, in the year 1672.

Assistance
from
France
promised.

Now supposing the *French* King, who is so zealous a Roman Catholick, had not so vigorously (and, as far as I can see) so impolitically carried on the Controversy with the Pope about the Franchises of his Ambassador at *Rome*; and that he had had the patience to suffer the Emperor to recover what his Ancestors had lost to the *Turks*, and left the Controversies between the Elector *Palatine* (who is a Roman Catholick) and the Dutcheß of *Orleans*, to the determination of the Pope, what had *France* lost in all this? And who then could have made one step to the Recovery of *England*? I know very well it is said, the Emperor would certainly begin a War with *France* so soon as ever he had ended this with the *Turks* to his mind: And in truth he had just reason so to do. But it is more probable he would have spent first some years in fortifying, peopling, and settling his new Conquests, to secure himself on that side against his most formidable Neighbour, rather than that he would presently transfer his Arms and victorious Armies from the East to the West, and pass so suddenly from one long and ruinous War to another of no less hazard and expence. And yet if he had done so, the Princes of the Empire would never so heartily and generally have joyned with him against *France*, if he had been the Aggressor, how just soever his cause had been, as it might easily have been foreseen they would, when they were first attack'd, and as it were forced to fly to the Emperor for his Protection. So that it was apparently the Interest of *France* to have sat still, and to have taken the first opportunity had offered it self to have enslaved the first of his Neighbours that had call'd him to their assistance: and our *English* Jesuits did not doubt but that he would.

In the Interim it was well for *England*, that the *French* King acted as he did; for to him, in a great measure, our Delivery is owing (tho he never intended it) his Breach with the Pope and the Empire, having not only given the *Dutch* a pretence to arm by Sea and Land, and so blinded the Eyes of our *English* Court, that they never saw, nor would believe themselves concern'd in it, till it was too late to help it; but it also united not only all the Protestant, but all the Catholick Princes too (except *France*) in the Project of delivering us for their own security, that we might be in a condition to unite with them again in preserving of *Europe* from following the Triumphant Chariot of *France* in Chains.

Endea-
vours to
advance
Popery.

His late Majesty seems to have been the only Prince in Christendom, who made it his great and almost only Design to advance the Interests of the Church of *Rome*, without and against his own temporal Interest. The rest of the Princes and their Council look in the first place to their own Concerns at home and abroad, and make the Affairs of Religion subservient to their other Designs. The Pope is not so fond of his old *Mumpsimus*, or of the Decrees of the Council of *Trent* it self, as to suffer *France* to conquer *Italy*, *Spain*, or *Germany*; nor *England*, nor *Holland* neither, how much soever it might seem to facilitate their Reduction to the See of *Rome*; because he knows very well the first Prince that shall make him-
self

self the Universal Monarch of *Europe*, or gain such a power over the rest, as is not to be disputed or opposed, will certainly put an end to the Sovereignty, Wealth, Grandeur and Independency of the Court of *Rome*; and the Pope will become as subject to him (notwithstanding his Infallibility) as the *Musty* is to the *Grand Signior*, who never makes any Scruple to depose or bow-string the Infallible Gentleman whenever he crosseth his Designs, and to set up another in his stead, whose Infallibility will be more complaisant. The Emperor of *Germany* is as Religious and as zealous a Prince for the Roman Catholick Religion as ever sprung out of that Family: But he has no mind, after all, to lose his Life, his Empire, and his Liberty; he had rather there should be some Hereticks in *Germany*, than suffer the *French* King to send his Apostolick Dragoons to convert them, and drive him into Exile. The King of *Spain* values the poor dispeopled share he has yet left him in *Europe* too well to put it into the Hands of the *French*, in order to the reducing the Northern Hereticks to the See of *Rome*. No wonder then that these Princes should all unite with his now Majesty of *England*, against a Prince of their own Religion, when they saw he had embraced a design which would certainly end in his and all their Ruins, and which would raise *France* to such a height of Power as could never be retrieved.

This was very near the state of Affairs at home and abroad, when Monsieur the Conte d' *Avaux*, the *French* King's Ambassador at the *Hague*, the 9th of September last publish'd this Memorial, which first opened the Eyes of our small States-men here in *England*. N. S.

My Lords,

THE sincere desire the King my Master has to maintain the Tranquillity of *Europe*, will not suffer his Majesty to see the great Preparations for War, both by Sea and Land, made by your Lordships, without taking the measures that Prudence (the continual Companion of all his Actions) inspires him with, to prevent the Mischiefs these War-like Preparations will certainly draw after them. Sept. 9. D'Avaux's Memorial to the States.

And altho the King, perswaded of the wisdom of your Councils, would not imagine that a Free State should so easily resolve to take up Arms, and to kindle a War, which in the present juncture cannot but be fatal to all Christendom: Nevertheless his Majesty cannot believe your Lordships would engage your selves in so great Expences both at home and abroad, to entertain in pay so many Foreign Troops, to put to Sea so numerous a Fleet so late in the year, and to prepare so great Magazines, if you had not a design form'd answerable to the greatness of these Preparations.

All these Circumstances, and many others that I may not here produce, perswade the King my Master, with reason, that this Arming threatens *England*: Wherefore his Majesty hath commanded me to declare to you on his part, That the Bands of Friendship and Alliance between him and the King of Great Britain, will oblige him not only to assist him, but also to look on the first act of Hostility that shall be committed by your Troops or your Fleet, against his Majesty of Great Britain, as a manifest Rupture of the Peace, and a Breach with his Crown.

I leave to your Lordships Prudence to reflect on the Consequences that such Enterprises may have, his Majesty not having ordered me to make you this Declaration on his Part, without his sincere Intention to prevent (as I have already had the Honour to tell you) all that may trouble the Peace of *Europe*.

Given at the *Hague* the 9th of September, 1688.

At the same time the Marquis of *Albyville*, the *English* Envoy Extraordinary at the *Hague*, put in this Memorial.

High and Mighty Lords,

THE great and surprizing Preparations for War made by your Lordships by Sea and Land, in a Season when ordinarily all Action, especially at Sea, is laid aside, giving just cause of surprize and alarm to all *Europe*, obliges the King my Master, who has had nothing so much in his mind, since his Accession to the Crown, as a Continuation of the Peace and good Correspondence with this State, to order the Marquis d' *Albyville* his Envoy Extraordinary, to know your Highnesses intentions thereby.

His Majesty as their antient Ally and Confederate, believes it just to demand this Knowledg, which he hoped with good reason to have heard from your Ambassador: but as he sees this Duty of Alliance and Confederation neglected, and that such Power is raised without communicating the intent in the least to him, he finds himself obliged to re-inforce his

Septemb. his Fleet, and to put himself in a Condition to maintain the Peace of Christendom. Given
 N. S. at the Hague the 2d of September, 1688.

Signed Le Marquiss d' Albyville.

As the Count d' Avaux seem'd not to expect or desire any Answer to his Memorial, presuming the Terror of his August and Victorious Master was sufficient to put an effectual stop to the Designs of the States, so they on their part return'd no Answer to him; but then they replied to the Marquiss d' Albyville, That they had armed in imitation of his Britannick Majesty, and the other Princes: And that they had thereby given no just cause of offence by Arming, when all the other Princes were in motion: And that they were long since fully convinc'd of the Alliance which the King his Master had treated with France, and which had been mention'd to them by M. Le Conte d' Avaux in his Memorial.

Sir B. Skelton sent to the Tower.

This Answer was like a clap of Thunder to the English Court, and caused the Revocation of Sir Bevil Skelton, who was soon after committed to the Tower, upon pretence he had given his consent to the Memorial of M. d' Avaux, without communicating it to the English Court: and Means were used to persuade the Court of France to disown and disclaim this Memorial, and the Alliance mention'd in it; but this could never be obtain'd. So that the French League or Treaty doth from hence appear to have been reasonably insisted on by the States of Holland, the French themselves having thus discovered it; and the English Nation, from what had been done in France and England, had all the reason in the World to believe it was level'd against their Religion and Civil Liberties, and was the Machinet to have put a fatal period to all that was valuable in that Kingdom.

In England all things were then in the utmost degree of Disorder and Security; the Army committing the utmost degree of Insolence in all places where they were quartered, and the People making frequent and loud Complaints. Whereupon his late Majesty issued out again an old Order, which had been frequently, and to no good purpose published before, commanding that no Soldier should be lodged in any private House, without the free and voluntary Consent of the Owner; and that all Houses should be deem'd private Houses except Victualling-houses, and Houses of publick Entertainment, or such as have License to sell Wine or other Liquors, &c. Under this Pretence they brought in all Bakers, Cooks, &c. This Order bears date the 2d of September at Windsor.

Army to be fill'd with Irishmen.

Tho the English Army were become thus intolerable to the Nation, and there was so great a Storm gathering in Holland, yet so stupid were our Drivers, that nothing would serve our then Masters but filling the Army with Irishmen, who were likely to be more disorderly, and more hated: to that end his Grace the Duke of Berwick ordered the Regiment quarter'd at Portsmouth, to take in about Thirty Irish Gentlemen; which was opposed by John Beaumont, Lieutenant Col. Thomas Paston, Simon Parke, Thomas Orme, William Cook and John Port, Officers and Commanders in that Regiment, which they had rais'd at their own Costs and Charges, during the Monmouth Invasion. The first of these made this Speech, by their appointment, and in all their names, to the Duke of Berwick.

S I R,

I Am desired by these Gentlemen (with whose Sense I concur) to inform your Grace, that we do not think it consistent with our Honours to have Foreigners imposed upon us, without being complain'd of, that our Companies were weak, or Orders to recruit them; not doubting but if such Orders had been given us, We that first in very ill Times raised them Hundreds, could easily now have made them according to the King's Complement. We humbly petition we may have leave to fill up our Companies with such Men of our Nation we may judg most sutable for the King's Service, and to support our Honours; or that we may be permitted, with all imaginable Duty and Respect, to lay down our Commissions.

The Officers having return'd this Answer to the Duke of Berwick, sent the following Letter to the Honourable Major Slingsby Lieutenant Governor of Portsmouth.

S I R,

We are very desirous that our Actions may be favourably construed; wherefore we have address'd this to you, with the Sense of the Discourse we had with his Grace the Duke of Berwick,

Berwick, which we hope will neither appear mutinous nor disrespectful, unto which we humbly put our Hands, and desire you to impart it to his Grace.

1688.

John Beaumont, } Simon Parke, } Will. Cooke,
Tho. Paston, } Tho. Orme, } John Port.

The account of this Opposition being forthwith sent to *Windsor*, where the Court then was, the Rage and Fury against these rebellious heretical Officers was unspeakable; and in truth nothing could be more contrary to their Designs, which was by degrees to fill up the *English* Army with *Irish* and *Roman* Catholicks, because they found it was not possible to do it at once, as they had done in *Ireland*. And now nothing would serve them but the hanging the six honest Gentlemen by Martial Law; and accordingly a Party of Horse were ordered to go down to *Portsmouth* to bring 'em up in custody, and a Court Martial was ordered to proceed against them: and if the Memorial of the *French* Ambassador had not come in that very Morning to shew them their Danger, in all probability they had been so treated; but upon this, the 10th of *September* they were only cashier'd. It was then commonly said they were ill treated on the Road, as is said in the first Edition, but that Report is since contradicted by others: However, this was one of those things which contributed very much to what followeth.

The Refusal resent-
ed.

The 20th of *September*, the King being then returned with the Court to *Whitehall*, published this Declaration.

Having already signified Our Pleasure to call a Parliament to meet at Our City of *Westminster* in *November* next, and Writs of Summons being issued accordingly; lest those whose Right it is to chuse Members of Parliament, should be under any Prejudices and Mistakes through the Artifices of disaffected Persons, We think fit to declare, That it is our Royal Purpose to endeavour a legal Establishment of an Universal Liberty of Conscience for all our Subjects; it is also our Resolution inviolably to preserve the Church of England by such a Confirmation of the several Acts of Uniformity, that they shall never be altered by any other ways than by repealing the several Clauses which inflict Penalties upon Persons not promoted, or to be promoted to any Ecclesiastical Benefices or Promotions within the meaning of the said Acts, for using and exercising their Religion, contrary to the Tenor and Purport of the said Acts of Uniformity. And for the further securing not only the Church of England, but the Protestant Religion in general, We are willing the Roman Catholicks shall remain incapable to be Members of the House of Commons; whereby those Fears and Apprehensions will be removed, which many Persons have had, That the Legislative Authority would be ingrossed by them and turn'd against Protestants.

We do likewise assure all our loving Subjects, that we shall be ready to do every thing else for their Safety and Advantage, that becomes a King, who will always take care of his People; and if they desire the Happiness of their Country, We exhort them to lay by all Animosities, and dispose themselves to think of such Persons to represent them in Parliament, whose Abilities and Temper render them fit for so great and good a Work.

And for the preventing any Disorders, Irregularities, or undue Proceedings whatsoever that may happen, either before or at the time of Election of Members for the ensuing Parliament, We do hereby strictly require and command all Mayors, Sheriffs, Bailiffs and other Officers whatsoever, to whom the execution of any Writ, Summons, Warrant or Precept, for or concerning the Choice of Members for the ensuing Parliament, shall belong, That they cause such Writ, Summons, Warrant or Precept to be duly published and executed according to the Tenor thereof; and the Members, that shall be chosen, to be fairly return'd according to the Merits of the Choice.

Hopes of a
Parliament's
meeting;

The Nation was by this time become so distrustful of all the Proceedings of the Court, that this Declaration was thought absolutely necessary to assure them a Parliament should be held; and yet after all it was little believed. The Preparations in *Holland* had made it necessary to wheedle the Church of England-men; and therefore they were told only the Penalties of the Acts of Uniformity should be repeal'd, that an universal Liberty of Conscience might be establish'd: And the Roman Catholicks not being likely to be chosen for Members of the lower House in this Parliament, they were contented to continue incapable of being chosen in there,

But not believ'd to be really intended.

Septemb. intimating, they intended however to sit in the House of Lords.

The 26th of September, there was an Order made to authorize and empower the Lords Lieutenants (many of whom were Roman Catholicks, or unqualified Persons) of the several Counties, to grant Deputations to such Gentlemen as had been lately removed from being Deputy-Lieutenants; and his Majesty also gave Directions to the Right Honourable the Lord Chancellor of England, to put into the Commission of the Peace such Gentlemen as had been lately laid aside, and shall be recommended by the said Lords Lieutenants.

Bishops
summoned
to attend.

In the Interim certain Intelligence being brought, that the Preparations in Holland were designed against England; the 24th of September were summoned the Bishops of London, Winchester, Ely, Chichester, Rochester and Bristol, and the Archbishop of Canterbury; and the 28th they appeared at Whitehall, and there waited accordingly that day upon the King in a body, Winchester, Ely, Chichester, Rochester, Bath and Wells, and Peterborough: but London and Bristol came not then to Town; and the Archbishop was sick, and came alone the next day. There passed nothing then but general Expressions of his Favour, and Promises of Duty on the Bishops part. Whereupon they all desired the Archbishop to beg a second Admission, which was appointed on Tuesday the 2d of October, but was put off till the next day.

The 28th of September his Majesty put out this following Declaration.

Declarati-
on upon the
News of
the Prepa-
rations in
Holland.

WE have received undoubted Advice, That a great and sudden Invasion from Holland, with an armed Force of Foreigners and Strangers, will speedily be made in an hostile manner upon this our Kingdom; and altho some false Pretences relating to Liberty, Property and Religion, contrived or worded with Art and Subtilty, may be given out (as shall be thought useful upon such an Attempt) it is manifest however (considering the great Preparations that are making) that no less matter by this Invasion is propos'd, than an absolute Conquest of these our Kingdoms, and the utter subduing and subjecting Us and all our People to a Foreign Power, which is promoted (as We understand, altho it may seem almost incredible) by some of our Subjects, being Persons of wicked and restless Spirits, implacable Malice, and desperate Designs; who having no sense of former intestine Distractions, the Memory and Misery whereof should endear and put a value upon that Peace and Happiness which hath long been enjoyed, nor being moved by Our reiterated Acts of Grace and Mercy, wherein we have studied and delighted to abound towards all our Subjects, and even towards those who were once avowed and open Enemies, and who do again endeavour to imbroid this Kingdom in Blood and Ruin, to gratify their own Ambition and Malice, promising to themselves a Prey and Booty in such a publick Confusion.

¶

We cannot omit to make it known, that altho We had notice some time since that a Foreign Force was preparing against Us, yet We have always declined any Foreign Succours, but rather have chosen (next under God) to rely upon the true and antient Courage, Faith and Allegiance of our own People, with whom we have often ventur'd our Life for the Honour of this Nation, and in whose defence against all Enemies We are firmly resolved to live and die: And therefore We solemnly conjure our Subjects to lay aside all Animosities, Jealousies and Prejudices, and heartily and chearfully to unite together in the defence of Us and their native Country, which thing alone will (under God) defeat and frustrate the principal Hope and Design of our Enemies, who expect to find our People divided; and by publishing perhaps some plausible Reasons of their coming hither, as the specious, tho false Pretences of maintaining the Protestant Religion, or asserting the Liberties and Properties of our People, do hope thereby to conquer this great and renowned Kingdom. But albeit the Design hath been carried on with all imaginable Secresy, and Endeavour to surprize and deceive Us; We have not been wanting on our part, to make such Provisions as did become Us; and by God's Blessing, We make no doubt of being found in so good a Posture, that our Enemies may have cause to repent such their rash and unjust Attempt.

¶

We did intend (as we lately declared) to have met our Parliament in November next, and the Writs are issued forth accordingly; proposing to Our selves, amongst other things, that We might be able to quiet the Minds of all our People in Matters of Religion, pursuant to the several Declarations we have published

published to that effect: but in regard of this strange and unreasonable Attempt from our Neighbouring Country (without any manner of Provocation) design'd to divert our said Gracious Purposes, We find it necessary to recall Our said Writs, which We do hereby recall accordingly, commanding and requiring Our loving Subjects to take notice thereof, and to surcease all further Proceedings thereon. And forasmuch as the approaching Danger which now is at hand, will require a great and vigorous Defence, We do hereby strictly charge and command all Our loving Subjects both by Sea and Land (whose ready Concurrency, Valour and Courage, as true *Englishmen*, We no way doubt in a just Cause) to be prepared to defend their Country. And We do hereby require and command all Lords-Lieutenants and Deputy-Lieutenants to use their best and utmost endeavours to resist, repel and suppress our Enemies, who come with such Confidence and great Preparations to invade and conquer these our Kingdoms. And lastly, We do most expressly and strictly enjoin and prohibit all and every our Subjects of what degree or condition soever, from giving any manner of Aid, Assistance, Countenance or Succour, or from having or holding any Correspondence with these our Enemies, or any of their Complices, upon pain of High-Treason, and being prosecuted and proceeded against with the utmost severity.

1688.

Given at our Court at Whitehall the 28th of September, 1688.

The Reader may be pleased to observe, 1. That Foreign Forces, which must be *French*, were declined; which implies they were profered: and perhaps it had been never the worse for them, if the *Irish*, who, considering their Religion and Temper towards the *English*, are as much Foreigners as the *French*, had been declined too; for we shall see they did him much Mischief, and little or no Service. 2. That the meeting of the Parliament was discharged before ever there was any mention of restoring the Charters of the Corporations.

September the 30th, his Grace the Duke of Newcastle, the Earl of Lindsey, the Earl of Derby and the Lord Jermyns and others of the Nobility were said to have offered their Service to his Majesty; and several of them had Commissions sent them to raise Men in their Countries. None of these and very few others of the Nobility or Gentry came up, but only sent Letters, which were now thought wonderful Obligations; so dreadful was the thought of the Invasion at Court, and so great the Discontent of the whole Body of the Nation for the late Transactions.

Some of the Nobility offer their Service of Assistance.

On Tuesday the 2d of October the King declared publicly in Council, That he would restore the Charter of the City of London. And in the Evening the Lord Mayor, Aldermen and Sheriffs of London attended the King at Whitehall, where he told them, 'That out of his Concern for the Peace and Welfare of the City, and as a Mark of the great Confidence he had in them at this time, when the Kingdom is threatned with an Invasion, he had resolved to restore to them their antient Charter and Privileges, and to put them into the same Condition they were in at the time of the Judgment pronounced against them upon the *QUO WARRANTO*; that so they might be the better enabled to serve him with Duty and Loyalty, which they had given the King his Brother and him so many Testimonies of; and upon which he depended. And hereupon he commanded the Lord Chancellor and the Attorney General to prepare an Instrument of Restauration and Confirmation. The Bishops, who had resolved before to ask this the next Day, turned that Request into Thanks, for his having prevented that part of their Petition.

October.

The Charter of London restored.

The Ministers by this time became so sensible of their Danger, and of the Temper of the Nation, that the 2d day of October they procured a General Pardon; in the beginning of which are these Words: *It has always been Our earnest Desire, since our Accession to the Crown, that all our People should live at ease, and in full enjoyment of Peace and Happiness under our Government; and nothing can be more agreeable unto Us, than that Offenders should be reformed by Acts of Mercy extended towards them, rather than Punishment; Our open Enemies having upon Repentance found our Favour. And altho besides Our particular Pardons which have been granted to many Persons, it be not long since We issued forth our Royal Proclamation of General Pardon to all our People; yet forasmuch as they who live most peaceably, do often fall within the reach of some of our Laws, &c.* Besides the usual Exceptions, were excepted all Treasons committed or done in the Parts beyond the Seas, or any other Place out of this Realm, and by name Robert Parsons, Edward Matthews, Samuel Venner, Andrew Fletcher,

A General Pardon.

Persons excepted.

October. cher, Colonel John Rumsey, Major John Mauly, Isaac Manley, Francis Charleton Esq; John Wildman Esq; Titus Oates, Robert Ferguson, Gilbert Burnet, Sir Robert Peyton, Laurence Braddon, Samuel Johnson Clerk, Thomas Tipping Esq; and Sir Rowland Gwynn.

The Pardon here hinted at, came out some few days before this; and in that, all Corporations and Bodies Politick were excepted: which looked so like a design against the Bishops, Deans and Colleges, that it was taken notice of; and this new Pardon sent after the former, to shew the World that as the Ministers were only a little too intent upon their own Security (as they had most need of this Pardon) so they never thought of the other.

On Wednesday *October* the 3d, the Archbishop of Canterbury and the Bishops of London, Winchester, Asaph, Ely, Chichester, Rochester, Bath and Wells, and Peterborough, all in a Body, waited upon the King, when the Archbishop spoke thus to him:

May it please your Sacred Majesty,

*The Archbishop's
Speech to
the King.*

*The Bishop
of Bath and
Wells.*

WHEN I had lately the Honour to wait upon You, You were pleased briefly to acquaint me with what had passed two days before between your Majesty and these my Reverend Brethren: by which, and by the Account which they themselves gave me, I perceived, that in truth there passed nothing but in very general Terms and Expressions of your Majesty's gracious and favourable Inclinations to the Church of England, and of our reciprocal Duty and Loyalty to your Majesty: Both which were sufficiently understood and declared before; and (as one of my Brethren then told You) would have been in the same State, if the Bishops had not stir'd one Foot out of their Diocesses. Sir, I found it grieved my Lords the Bishops to have come so far, and to have done so little; and I am assured they came then prepared to have given your Majesty some more particular Instances of their Duty and Zeal for your Service, had they not apprehended from some Words which fell from your Majesty, that you were not then at leisure to receive them. It was for this Reason that I then besought your Majesty to command us once more to attend You all together, which your Majesty was pleased graciously to allow and encourage. We therefore are here now before you, with all Humility to beg your Permission, that we may suggest to your Majesty such Advices as we think proper at this Season, and conducing to your Service, and so leave them to your Princely Consideration. Which the King being graciously pleased to permit, the Archbishop proceeded as followeth.

*Their Pro-
posals.*

I. Our first humble Advice is, That your Majesty will be graciously pleased to put the Management of your Government, in the several Counties, into the Hands of such of the Nobility and Gentry there, as are legally qualified for it.

II. That your Majesty will be graciously pleased to annul your Commission for Ecclesiastical Affairs; and that no such Court as that Commission sets up, may be erected for the future.

III. That your Majesty will be graciously pleased, That no Dispensation may be granted or continued, by virtue whereof any Person not duly qualified by Law, hath been, or may be put into any Place, Office, or Preferment in Church or State, or in the Universities, or continued in the same; especially such as have Cure of Souls annexed to them: and in particular, That You will be graciously pleased to restore the President and Fellows of St. Mary Magdalen College in Oxford.

IV. That your Majesty will be graciously pleased to set aside all Licences or Faculties already granted, by which any Persons of the Romish Communion may pretend to be enabled to teach Publick Schools; and that no such be granted for the future.

V. That your Majesty will be graciously pleased to desist from the Exercise of such a dispensing Power as hath of late been used; and to permit that Point to be freely and calmly debated and argued, and finally settled in Parliament.

VI. That your Majesty will be graciously pleased to inhibit the four Foreign Bishops, who stile themselves *Vicars Apostolical*, from further invading the Ecclesiastical Jurisdiction which is by Law vested in the Bishops of this Church.

VII. That your Majesty will be graciously pleased to fill the vacant Bishopricks and other Ecclesiastical Promotions within your Gift, both in England and Ireland, with Men of Learning and Piety; and in particular (which I must own to be my peculiar boldness, for 'tis done without the Privy of my Brethren) That You will be graciously pleased forthwith to fill the Archiepiscopal Chair of York (which hath so long stood empty, and upon which a whole Province depends) with

with some very worthy Person: For which (pardon me, Sir, if I am bold to say) you have now here before You a very fair Choice. 1688.

VIII. That your Majesty will be graciously pleased to supersede all further Prosecution of *Quo Warranto's* against Corporations, and to restore to them their antient Charters, Privileges, and Franchises; as we hear God hath put into your Majesty's Heart to do for the City of *London*: which we intended to have made otherwise one of our principal Requests.

IX. That if it so please your Majesty, Writs may be issued out with convenient speed, for the calling of a free and regular Parliament; in which the Church of *England* may be secured according to the Acts of Uniformity, Provision may be made for a due Liberty of Conscience, and for securing the Liberties and Properties of all your Subjects; and a mutual Confidence and good Understanding may be established between your Majesty and all your People.

X. Above all, That your Majesty will be graciously pleased to permit your Bishops to offer You such Motives and Arguments as (we trust) may, by God's Grace, be effectual to perswade your Majesty to return to the Communion of the Church of *England*, into whose most holy Catholick Faith you were baptized, and in which you were educated, and to which it is our daily earnest Prayer to God that you may be re-united.

These, Sir, are the humble Advices, which out of Conscience of the Duty we owe to God, to your Majesty and to our Country, we think fit at this time to offer to your Majesty, as futable to the present State of your Affairs, and most conducing to your Service; and so to leave them to your Princely Consideration. And we heartily beseech Almighty God, in whose Hand the Hearts of all Kings are, so to dispose and govern Yours, that in all your Thoughts, Words and Works, You may ever seek his Honour and Glory, and study to preserve the People committed to your Charge, in Wealth, Peace and Godliness, to your own both temporal and eternal Happiness. Amen.

We do heartily concur.

W. Cant.

Fran. Ely.

Jo. Cicestr.

H. London.

Tho. Roffen.

P. Winchester.

Tho. Bath & Wells.

W. Asaph.

Tho. Petriburg.

We may guess at the Rage the Priests were in at these Advices, by the resentment they * expressed afterwards against these innocent and good Proposals, when their Affairs were in a much worse state than now they were. The Bishop of *Roche-ster* observes, that they were drawn at *Lambeth* on Monday the first of *October*, and presented the third; and the Prince of *Orange's* Declaration was signed in *Holland* the tenth, New Stile, which was the first of our Month; and the matter of them is very near the same, except one or two particulars, too high for Subjects to meddle with: and all this at a time when the King thought of nothing but Victory, when, in all probability, he was the strongest both at Sea and Land; when as yet there was no appearance of such a prodigious alienation of his Subjects Affections; when at least his Army was thought to be still firm to him, and when the very Winds and Seas seemed hitherto as much on his side as they all afterwards turned against him.

The same day the King gave Commission to the Duke of *Newcastle* to raise a Regiment of Foot; to the Lord *Brandon*, and the Marquis de *Miremont*, Nephew to the Earl of *Feversham*, each a Regiment of Horse; to Colonel *Henry Gage*, and Colonel *Solomon Richards*, Regiments of Foot; and many Independent Troops and Companies to several of the Nobility and Gentry. Commission to raise new Forces.

October the 5th, two days after the Bishops had made the Ten famous Proposals above recited, the King declared in Council, That in pursuance of his Resolution and Intentions to protect the Church of *England*, and that all Suspicions and Jealousies to the contrary may be removed, he had thought fit to dissolve the Commission for Causes Ecclesiastical, &c. and accordingly did give Directions to the Lord

* Dutch Design Anatomized, p. 29. The Bishops Proposals are the contrivance of the King's Enemies, framed of purpose to amuse the People, as if till they be granted, we are not safe.

October. Chancellor of *England* to cause the same to be forthwith done. Now this was only half what was asked ; it not being declared illegal, nor any Promise made, so soon as ever the times would serve, it should not be renewed : And we shall see the Jesuits were champing on it by and by.

The same day his Majesty was pleased to make the Duke of *Newcastle* Lord Lieutenant of the three Ridings in the County of *York*,

The City of London restor'd to their Liberties.

The sixth of *October*, the King was also graciously pleased to restore to the City of *London* all their antient Franchises and Privileges, as fully as they enjoyed them before the late Judgment upon the *Quo Warranto* ; and the Lord Chancellor did them the Honour to bring down the Instrument of Restitution and Confirmation under the Great Seal of *England*. And Sir *John Chapman* was thereby constituted Lord Mayor till the time of the Election, and was accordingly sworn in the Guild-hall with the usual Solemnity.

The same day, the Aldermen (now in being) that were at the time of the said Judgment took their former places, and the Vacancies were to be supplied by the Election of the Citizens, according to the antient Custom of the City.

And an Address of Thanks was forthwith voted and signed for the Favour granted to them.

October the 10th, his Majesty having received several Complaints of great Abuses committed in the late Regulations of the Corporations, thereupon in Council thought fit to authorize and require the Lords Lieutenants of the several Counties to inform themselves of all such Abuses and Irregularities within their Lieutenancies, and to make forthwith Report thereof to his Majesty, together with what they conceive fit to be done for the redressing of the same : Whereupon he would give such further Orders as should be requisite. But pressing News coming over from time to time of the great Preparations in *Holland*, these slow Methods soon appeared unsafe, and not fit to be relied upon ; and therefore it became necessary to throw up at once this great and beloved advantage, now it was utterly impossible to keep it any longer. By all which we may observe, that all was pure Force and Fear ; and it will appear more fully in what is to follow.

About the same time, Sir *Thomas Haggerston*, Lieutenant Governour of *Berwick*, gave an account of the unanimous Loyalty of that Corporation, and that they had desired him to make humble Suit to have a Commission sent down for the raising of a Regiment of the Inhabitants, to be assisting to his Majesties Forces there, for defence of that place as there may be occasion.

The 11th of *October*, there was published a Form of Prayers to be us'd in all Cathedral, Collegiate, and Parochial Churches and Chappels, within this Kingdom, during the time of publick Apprehensions from the Danger of Invasion, and to be added to the daily Office both Morning and Evening, immediately after the Prayers for the King and the Royal Family. The first of these was a Prayer for Repentance ; the second, for the King, is as follows.

New Form of Prayer.

O Almighty God, the blessed and only Potentate ! we offer up our humble Supplications and Prayers to thy Divine Goodness, beseeching thee in this time of Danger to save and protect our most gracious King : give thy Holy Angels charge over him ; preserve his Royal Person in Health and Safety ; inspire him with Wisdom and Justice in all his Counsels ; Prosper all his Undertakings for thy Honour and Service with good Success ; Fill his Princely heart with a Fatherly Care of all his People ; and give all his Subjects Grace always to bear Faith and true Allegiance to his Majesty ; that both King and People joining together to promote thy Glory, and conscientiously discharging their Duties in their several Stations, may all give thee Thanks and Praise for thy most mighty Protection, and for all other thy great Mercies vouchsafed to us, through Jesus Christ thy Son our Saviour. Amen.

The third Prayer for Peace and Unity.

O Lord God, our only Hope in time of need ! save and deliver us, we humbly beseech thee, from all those Dangers that threaten us ; Give Peace in our Days, O Lord, if it be thy Will, and prevent the Effusion of Christian Blood in our Land : Reconcile all our Dissensions, and heal all our Breaches : Preserve that holy Religion we profess, together with our Laws and Antient Government ; and unite us all in unfeigned and universal Charity one towards another, and in one and the same holy Worship and Communion ; that with one Heart and one Mouth we may glorifie thy holy Name, and shew forth thy Praise from

from Generation to Generation: And this we beg for the sake of Jesus thy beloved, in whom thou art well pleased; to whom, with thee and the Holy Ghost, be all Honour and Glory now and evermore. Amen.

I am fully perswaded, these Prayers contributed very considerably to the late Revolution, and taught Men they were no more bound to promote any of the late King's Undertakings with their Swords than with their Prayers, but what tended to the Honour and Service of God: And the very supplicating God to preserve our Holy Religion, together with our Laws and Antient Government, necessarily put Men in mind that they had been endangered; and by whom, was as well known: and it seemed Nonsense and Hypocrisie to pray to God to preserve these, and in the mean time to aid and assist the Enemies of both to destroy and ruin them.

October the 17th, there was a Proclamation put out for restoring Corporations to their Antient Charters, Liberties, Rights, and Franchises, as followeth.

Whereas We are informed, That several Deeds of Surrender, which have been lately made by several Corporations and Bodies Corporate, of and in Our Cities and Towns within our Kingdom of England, and Dominion of Wales, of their Charters, Franchises, and Privileges, are not yet Recorded or Inroll'd: and that upon the Proceedings and Rules for Judgment, which have lately been had upon the *Quo Warranto's*, Judgments are not yet entred upon Record: Whereupon, notwithstanding New Charters have been granted in the Reign of Our late dear Brother, and in Our Reign; which said Deeds (being not Inroll'd nor Recorded) do not amount unto, or in Law make any Surrender of the Charters, Franchises, or Liberties therein mentioned: And such of the said Corporations or Bodies Politick, against which Rules for Judgment have been made in the Life-time of Our late dear Brother, or since, in Our Court of King's-Bench (but no Judgments entred upon Record) are not Discorporate or Dissolved, and that it is in Our Power to leave such Corporations in the same State and Condition they were in, and to discharge all further Proceedings and Effects that may be of such Rules for Judgments, and Deeds of Surrender: We do hereby publish and Declare, That upon due Search and Examination made, We have satisfaction, that the Deeds of Surrender made by the Corporations and Bodies Politick of the said Cities and Towns, except the Corporations following (that is to say) *Thetford, Nottingham, Bridgwater, Ludlow, Bewdley, Beverley, Teuksbury, Exeter, Doncaster, Colchester, Winchester, Launceston, Liskerd, Plimpton, Tregony, Plymouth, Dunwich, St. Ives, Fowy, East-Looe, Camelford, West-Looe, Tintegal, Penryn, Truro, Bodmyn, Haldleigh, Lestwithell and Saltash*, are not inrolled or recorded in any of our Courts: And tho Rules for Judgments have passed upon Informations in nature of a *Quo Warranto*, against the Corporations and Bodies Politick of several Cities and Towns in our said Kingdom and Dominion, yet no Judgments have been or are entred upon Record upon any such Informations, except against the City of *London, Chester, Calne, St. Ives, Pool, York, Thaxted, Langbour, and Malmesbury*. And We of Our meer Grace and Favour being resolved to restore and put all our Cities, Towns, and Boroughs in *England and Wales*, and also our Town of *Berwick upon Tweed*, into the same State and Condition they were and was in Our late dear Brother's Reign, before any Deed of Surrender was made of their Charters or Franchises, or Proceedings against them, or the Corporations or Bodies Politick, in or of the said Cities, Towns, or Boroughs, upon any *Quo Warranto*, or Information in nature of a *Quo Warranto* had.

Proclamation for restoring Corporations to their antient Rights.

We do therefore hereby publish, declare, direct, and require, That the said Corporations, and Bodies Politick and Corporate, of all the said Cities, Towns and Boroughs, whose Deeds of Surrender are not Inrolled, nor Judgments entred against them as aforesaid, and the Mayors, Bayliffs, Sheriffs, Aldermen, Common Council-men, Assistants, Recorders, Town-clerks, Magistrates, Ministers, Officers, Free-men, and all and every other the Members of, or in every of them respectively, upon the Publication of this Our Proclamation, take on them and proceed to act as a Corporation or Body Politick; and where Places are vacant by Death, or otherwise, to make Elections, constitute, and fill up the same, (notwithstanding the usual Days and Times of Elections, by the Antient Charters and Constitutions, shall happen to be past) and to do and execute and perform all and every Matter and Thing, as they lawfully might and ought to have done, if

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no such Deeds of Surrender, Rules for Judgment, or other Proceedings upon any such *Quo Warranto's* or Informations had been had or made. And for the better effecting Our said Intention, We have by Order made by Us in Council, and under our Sign Manual; and We do also by this our Proclamation, made with the Advice of Our said Council, discharge, remove, and dismiss all and every Person and Persons, of and from all Offices and Places of Mayors, Bayliffs, Sheriffs, Aldermen, Common Council-men, Assistants, Recorder, Town-clerk, and all and every Office and Place, which they or any of them have or claim only by Charter, Patent, or Grant from our dear Brother, or from our Self, since the Dates of the respective Deeds of Surrender or Rules of Judgment; except such Corporations whose Deeds of Surrender are Inrolled, or against whom Judgment is entred; and that all and every such Person and Persons deliver up into the Hands of the said Persons hereby appointed and intended to act and execute the said Offices and Places, all and every the Charters, Records, Books, Evidences, and Matters concerning the said Corporations.

And We do hereby further publish and declare, That we have caused all and every the said Deeds of Surrender which can be found, to be delivered and put into the Hands of our Attorney-General, to be by him cancel'd, and returned to the Corporations and Bodies Politick of the respective Cities and Towns whom they concern; and have also given to Our said Attorney Authority, and do hereby by Warrant and Command him, not only not to proceed or enter Judgment upon the said *Quo Warranto's*, or Informations in nature of a *Quo Warranto*, or any of them, but to enter upon the respective Records *Noli Prosequi's* and Legal Discharges thereof. And we do hereby publish and declare Our further Grace and Favour to the said Cities, Corporations, and Boroughs, at any time hereafter, by any further Act, to grant, confirm, or restore unto them all their Charters, Liberties, Franchises, and Privileges that at the respective times of such Deeds of Surrender or Rules for Judgment made or given, they held or enjoyed. And in order to the perfecting Our said Gracious Intentions, We do hereby likewise publish and declare our Royal Will and Pleasure for and concerning the restoring to such our Cities, Corporations, and Boroughs, within our said Kingdom and Dominion, which have made Deeds of Surrender, or have had Judgment given against them, which Surrenders and Judgments are entred of Record, That our Chancellor, Attorney-General, and Solicitor-General, without Fees to any Officer or Officers whatsoever, upon Application to them made, shall, and they are hereby required to prepare and pass Charters, Instruments, Grants, and Letters-Patent, for the Incorporating, Re-granting, Confirming, and Restoring to all and every the said Cities, Corporations, and Boroughs, their respective Charters, Liberties, Rights, Franchises, and Privileges, and for restoring the respective Mayors, Bayliffs, Recorders Sheriffs, Town-clerks, Aldermen, Common Council-men, Assistants, Officers, Magistrates, Ministers, and Free-men, as were of such Cities, Corporations, and Boroughs, at the time of such Deeds of Surrender or Judgments respectively given or had; and for the putting them into the same State, Condition, and Plight they were in at the times of such Deeds of Surrender, or Judgment made or given. And whereas divers Boroughs that were not heretofore Corporations, have since the Year 1679. had Charters of Incorporation granted and passed unto them; We hereby further express and declare our Royal Pleasure, to determine and annul the said last mentioned Charters and Corporations: And to that end, We have in pursuance to the Power reserved in the said Charters, by our Order in Council, and under our Sign Manual, removed and discharged, and We do also by this our Proclamation, made with the Advice of our said Council, remove and discharge all and every Person of or in the said last mentioned Corporations, of and from all Offices and Places of Mayors, Bayliffs, Recorders, Sheriffs, Aldermen, Common Council-men, Assistants, and of and from all and every other Office and Place from which We have Power reserved by the said Charters respectively to remove or discharge them. And we do hereby promise and declare, That We will do and consent to all such Acts, Matters, and Things as shall be necessary to render these our Gracious Intentions and Purposes effectual: It being our Gracious Intention to call a Parliament as soon as the General Disturbance of our Kingdom by the intended Invasion, will admit thereof.

Given at Whitehall.

It was necessary to transcribe this long Piece, to shew what an hurry of Confusion the Nation was then in, and how reasonable it was for the Bishops in their Seventh Proposal to desire the Restitution of all these Corporations and Boroughs to their Antient State, without which (as things had been carried of late especially) it was altogether impossible a Free and Legal Parliament should be held. 1688.

The 12th of *October*, his Majesty having declared his Resolution to preserve the Church of *England* in all its Rights and Immunities, as an Evidence of it, signified his Pleasure to the Right Reverend Father in God the Lord Bishop of *Winchester*, as Visitor of *St. Mary Magdalen College* in *Oxford*, to settle that Society Regularly and Statutably; who accordingly caused, the 16th of that Month, a Citation to be fixed upon the College Gates, to re-call Dr. *Hough* and the former Fellows of that Society, by the second of *November* following: And he accordingly went down to re-instate them, and was joyfully received by the University; but an Account coming that very Post, that the *Dutch Fleet* had suffered very much in a Storm the 16th of the same Month *N. S.* and that they would hardly be able to sail till the Spring, his Lordship was re-called to *London*, and the Restitution put off. But soon after that false News being contradicted, the Affection to the Church of *England* revived, and the 24th of *October* he returned, and went thorow with the Work. Promises to preserve the Church of England.

The 15th, the pretended Prince of *Wales* (being Baptized before) was in the Chappel at *St. James's* declared *James, Francis, Edward*; the Nuncio representing the Pope, and the Queen Dowager being his only Godmother. Prince of Wales baptiz'd.

The 17th, the Earl of *Derby* was declared Lord-Lieutenant of *Chester* and *Lancaster*.

The 20th of *October*, we had the Favour of the following Proclamation bestowed upon us,

Forasmuch as the great Preparations made to invade and conquer this our Kingdom, require Our utmost Care in providing for the necessary Safety and Defence thereof, wherein we resolve (thro God's Assistance) not to be wanting; and to the intent that our Enemies, who will bring the heavy and sad Calamities of War, may not strengthen themselves at their coming hither, by seizing the Horses, Oxen, and Cattel of any of our Subjects, which may be useful and serviceable to them for Burden and Draught: We have therefore thought fit, and We do here, by this our Royal Proclamation (published by and with the Advice of our Privy-Council) strictly charge and command all and every the Lords-Lieutenants and Deputy-Lieutenants of Our respective Counties adjoining to the Sea, and all Sheriffs, Justices of Peace, Mayors, Bayliffs, and all and every other Officers and Ministers Civil and Military, within their respective Counties, Cities, Towns, and Divisions, That they cause the Coasts to be carefully watched, and upon the first approach of the Enemy, to cause all Horses, Oxen, and Cattel which may be fit for Burden or Draught, and not actually employed in the Defence and Service of Us and the Country, to be driven and removed for the space of at least Twenty Miles from the Place where the Enemy shall attempt to land, and to secure the same in such effectual manner, that they may not fall into the hands or power of any of our Enemies: Wherein nevertheless it is our Will and Pleasure that the respective Owners may suffer as little damage and loss as may be consistent with the great and publick Safety of the Kingdom. About the Preparations in Holland.

The same day the Earl of *Oxford*, who had but a short time before been turned out of the Lieutenantancy of *Essex*, for refusing to consent to the Repeal of the Penal Laws and Tests, was restored to the said Office, as several others were about the same time.

The 22d of *October*, his Majesty ordered the Council to be assembled, and desired the Queen Dowager, and such of the Peers of this Kingdom, both Spiritual and Temporal, as were in Town, as also the Lord Mayor and Aldermen of *London*, and the Judges, and several of his Majesty's Council learned in the Law, and the Ladies, Lords, and others that were present at the Queen's Labour, to appear there, and declare upon Oath what they knew of the Birth of his Royal Highness the Prince of *Wales* (as he was then call'd) of all which a full and particular Relation was then promised to be published, as was soon after done; but then those Depositions are too well known to need, and too long to be here inserted without cause: They have since been examined by another Pen, and therefore I may the better

October. ter pass them by, when I have put this short Question, Why were they so long delay'd, and to what purpose were they now published? Why, they had received Intelligence that the Troops were now on Shipboard, and that the Prince of *Orange* would embark himself so soon as the Ships from the *Texel* had joined with those in the *Maes*.

The Nation was by this time exasperated and fermented to that height against the Court and Popish Party, that all places were filled with Reports and Whispers to their Disadvantage, many of which were false, and some ridiculous and impossible, which yet were then greedily swallowed, and industriously spread and promoted; the Authors of them being utterly unknown, and doing it on various accounts, some out of mere Wantonness and Banter; others out of Spite, Design, and Aversion. And there can be nothing more unreasonable, than to expect his now Majesty should be obliged to prove all the silly Stories were then spread abroad by those who pretended to favour his Interest, but did in reality rather mischief than good to him. To put a stop to these Rumours, the 26th of *October* this following Proclamation was published.

Proclamation
against
spreading
of false
Reports
and Ru-
mours.

‘ **A**Ltho since our Accession to the Crown, We have graciously extended our Royal Mercy and Clemency to our Subjects by several General Pardons, one whereof was lately published; yet we are sensible that divers evil disposed Persons being not reformed or wrought upon by such our Grace and Favour, do notwithstanding make it their business by Writing, Printing, or Speaking, to defame our Government with false and seditious News and Reports, thereby intending to amuse Our loving Subjects, and as far as they are able to create in them an universal Jealousy and Discontent, especially in this time of publick Danger threatned by the intended Invasion upon this our Kingdom, and consequently to alienate the Hearts of such of Our loving Subjects from Us, who otherwise would readily yield unto Us that Aid and Assistance which by their natural Allegiance they are bound to do: And whereas by the antient Laws and Statutes of this Realm, great and heavy Penalties are inflicted upon all such as shall be found to be spreaders of false News, or Promoters of any malicious Slanders and Calumnies in their ordinary and common Discourse, or otherwise; and more especially upon such who shall utter, or publish any words or things to incite or stir up the People to hatred or dislike of our Person, or the established Government: Notwithstanding which, there have been of late more bold and licentious Discourses than formerly, and Men have assumed to themselves a liberty, not only in Coffee-houses, but in other Places and Meetings both publick and private, to censure and defame the Proceedings of State, by speaking evil of things they understand not. We therefore considering that Offences of this nature proceed from the restless Malice of evil Persons, or from the careless Demeanour of others, who presume too much upon Our accustomed Clemency and Goodness, have therefore thought fit by this our Royal Proclamation, by and with the Advice of our Privy Council, streightly to forewarn and command all our Subjects, of what estate or condition they be, that they presume not henceforth, either by Writing, Printing, or Speaking, to utter or publish any false News or Reports whatsoever, or to intermeddle with the Affairs of State or Government, or with the Persons of any of our Counsellors or Ministers, in their common and ordinary Discourses, as they will answer the contrary at their utmost perils.

‘ And because all bold and irreverent Speeches touching Matters of high nature, and all malicious and false Reports tending to Sedition, or to the Amusement of our People, are punishable not only in the Speakers, but in the Hearers also, unless they do speedily reveal the same to some of our Privy Council, or some other of our Judges or Justices of the Peace: Therefore that all Persons may be left without excuse, who shall not hereafter contain themselves within that modest and dutiful regard which becomes them, We further declare, that We will proceed with all Severity and Rigor against all such Persons as shall be guilty of any such malicious and unlawful Practices, by Writing, Printing, or other Publication of such false News and Reports; or as shall receive or hear the same without revealing or giving Information thereof, as aforesaid, in due time: We being resolved to suppress the said Enormities by a most strict and exemplary Punishment of all such Offenders as shall hereafter be discovered. And We do hereby strictly charge and command all and singular our Judges, Justices of the Peace, Sheriffs, Mayors, Bailiffs, and all other our Officers

‘ ficers and Ministers whatsoever, to take effectual care for the speedy Apprehension, Prosecution, and severe Punishment of all such Persons who shall at any time hereafter be found Offenders herein. 1688.

This Proclamation rather increased the Aversion men then generally had for the Government; and there were very few who did not presently reflect on Father *Does no good.* *Peter*, who was then one of the Privy Council, as fitter to be hang’d than reverenc’d: but they were then under Hatches and must comply, and for two or three days News was wondrous scarce; but then they fell to it again with so much the greater liberty, the publick Hatred prevailing over their Fear, as the day of their wished Redemption grew nearer. But however, the *Roman* Catholicks from this time forward were studiously avoided, no Man fearing any trouble from any body else; as in truth I never heard of any Man that was prosecuted upon this account.

The 28th of *October* the Earl of *Sunderland* was removed from the Office of Principal Secretary of State, and the Lord Viscount *Preston* put in his room: This Change pleased all Men, but it came too late. *Earl of Sunderland removed, and Lord Preston made Secretary of State.*

As the Cause of the Dismission of the Earl of *Sunderland* was then wholly unknown, so it gave occasion to the reviving a Report that had been spread not long before, upon the Imprisonment of * Sir *Bevil Skelton* the *English* Ambassador in *France*, that there had lately been a League concluded between the King of *England* and *France*, for the extirpation of the Protestant Religion here, and the establishing Popery and Arbitrary Government; to which end the *French* King was (as was said) to send a considerable Army, and great Sums of Money into *England*. And, as it was before pretended, that *Skelton* being a Protestant, had discovered this Transaction to the Prince of *Orange*: so it was now said, *Sunderland* had lost the Original League out of his Scritore, and that it was carried over to the Prince of *Orange*, who would produce it to the Parliament of *England*. But since that the Earl of *Sunderland* has published a Letter, wherein he has given a larger Account of the true Cause of his being laid aside, than is any where else to be met with; and therefore I think it reasonable to add it here.

The Earl of *Sunderland*’s Letter to a Friend in London, published March 23. 1689.

TO comply with what you desire, I will explain some things which we talked of before I left *England*. I have been in a Station of a great Noise, without Power or Advantage whilst I was in it, and to my Ruin now I am out of it. I know I cannot justify my self by saying, tho it is true, that I thought to have prevented much Mischiefe; for when I found that I could not, I ought to have quitted the Service; neither is it an Excuse, that I have got none of those things which usually engage Men in publick Affairs. My Quality is the same it ever was, and my Estate much worse, even ruin’d, tho I was born to a very considerable one, which I am ashamed to have spoiled, tho not so much as if I had encreased it by indirect Means. But to go on to what you expect: The pretence to a Dispensing Power being not only the first thing which was much disliked since the death of the late King, but the Foundation of all the rest, I ought to begin with that which I had so little to do with, that I never heard it spoken of till the time of *Monmouth*’s Rebellion, that the King told some of the Council, of which I was one, that he was resolved to give Employments to *Roman* Catholicks, it being fit that all Persons should serve who could be useful, and on whom he might depend. I think every body advised him against it, but with little effect, as was soon seen: That Party was so well pleased with what the King had done, that they persuaded him to mention it in his Speech at the next meeting of the Parliament, which he did, after many Debates whether it was proper or not; in all which I opposed it, as is known to very considerable Persons, some of which were of another Opinion; for I thought it would engage the King too far, and it did give such Offence to the Parliament, that it was thought necessary to prorogue it. After which, the King fell immediately to the supporting the Dispensing Power, the most chimerical thing that

* It is now well known that Sir *B. Skelton* was imprison’d for having (as was pretended) given his Consent to the *French* Memorial, recited pag. 42. without the knowledg of the *English* Court, which was shy of being thought so addicted to the *French* Interest, as is there expressed. was

October. was ever thought of, and must be so till the Government here is as absolute as in Turkey, all Power being included in that one. This is the Sense I ever had of it; and when I heard Lawyers defend it, I never changed my Opinion or Language: however it went on, most of the Judges being for it, and was the chief Business of the State, till it was looked on as settled. Then the Ecclesiastical Court was set up, in which there being so many considerable Men of several kinds, I could have but a small part; and that after Lawyers had told the King it was legal, and nothing like the High Commission Court, I can most truly say, and it is well known that for a good while I defended *Magdalen College* purely by care and industry, and have hundreds of times begg'd of the King never to grant *Mandates*, or to change any thing in the regular course of Ecclesiastical Affairs, which he often thought reasonable, and then by perpetual Importunities was prevailed upon against his own Sense; which was the very case of *Magdalen College*, as of some others.

These things which I endeavoured, tho without Success, drew upon me the Anger and Ill-will of many about the King. The next thing to be tried, was to take off the Penal Laws and the Tests, so many having promised their Concurrence towards it, that his Majesty thought it feasible: But he soon found it was not to be done by that Parliament, which made all the Catholicks desire it might be dissolved; which I was so much against, that they complained of me to the King, as a Man who ruined all his Designs by opposing the only thing could carry them on; Liberty of Conscience being the Foundation on which he was to build. That it was first offered at by the Lord *Clifford*, who by it had done the Work, even in the late King's time, if it had not been for his weakness, and the weakness of his Ministers: Yet I hindred the Dissolution several weeks, by telling the King that the Parliament in being would do every thing he could desire, but the taking off the Penal Laws and Tests, or the allowing his Dispensing Power; and that any other Parliament, tho such a one could be had as was proposed, would probably never repeal those Laws; and if they did, they would certainly never do any thing for the support of the Government, whatever Exigency it might be in. At that time the King of *Spain* was sick, upon which I said often to the King, that if he should die, it would be impossible for his Majesty to preserve the Peace of Christendom; that a War must be expected, and such a one as would chiefly concern *England*: And that if the present Parliament continued, he might be sure of all the Help and Service he could wish; but in case he dissolved it, he must give over all thoughts of Foreign Affairs, for no other would ever assist him, but on such Terms as would ruin the Monarchy; so that from abroad, or at home, he would be destroyed, if the Parliament were broken, and any Accident should happen, of which there were many, to make the Aid of his People necessary to him. This and much more I said to him several times privately, and in the hearing of others. But being over-power'd, the Parliament was broke, the Closetting went on, and a new one was to be chosen. Who was to get by closetting, I need not say; but it was certainly not I, nor any of my Friends; many of them suffer'd, whom I would fain have saved, and yet I must confess with grief, that when the King was resolv'd, and there was no Remedy, I did not quit, as I ought to have done, but served on in order to the calling another Parliament. In the midst of all the Preparations for it, and whilst the Corporations were regulating, the King thought fit to order his Declarations to be read in all Churches, of which I most solemnly protest, I never heard one word till the King directed it in Council. That drew on the Petition of my Lord the Archbishop of *Canterbury*, and the other Lords the Bishops, and their Prosecution, which I was so openly against, that by arguing continually to shew the Injustice and the Imprudence of it, I brought the Fury of the *Roman* Catholicks upon me to such a degree, and so unanimously, that I was just sinking, and I wish I had then sunk: but whatever I did foolishly to preserve my self, I continued still to be the Object of their Hatred, and I resolv'd to serve the Publick as well as I could, which I am sure most of the considerable Protestants then at Court can testify; and so can one very eminent Man of the Country, whom I would have persuaded to come into business, which he might have done, to help me to resist the Violence of those in Power; but he despaired of being able to do any good, and therefore would not engage. Sometime after came the first News of the Prince's Designs, which were not then look'd on as they have proved, no body foreseeing the Miracles he has done by his wonderful Prudence, Conduct, and Courage; for the greatest thing which has been undertaken these thousand years, or perhaps ever, could not be effected with-

out

out Vertues hardly to be imagined till seen nearer hand. Upon the first thought of his coming I laid hold of the opportunity to press the King to do several things which I would have had done sooner; the chief of which were to restore *Magdalen College*, and all other Ecclesiastical Preferments, which had been diverted from what they were intended for, to take off my Lord Bishop of *London's* Suspension, to put the Counties into the same hands they were in some time before, to annul the Ecclesiastical Court, and to restore entirely all the Corporations of *England*. These things were done effectually by the help of some about the King: and it was then thought I had destroyed my self, by enraging again the whole *Roman Catholick* Party to such a height as had not been seen; they dispersed Libels of me every day, told the King that I betrayed him, that I ruined him by perswading him to make such shameful Condescensions; but most of all by hindring the securing the chief of the disaffected Nobility and Gentry, which was proposed as a certain way to break all the Prince's Measures; and by advising his Majesty to call a Free Parliament, and to depend upon that, rather than upon Foreign Assistance. It is true, I did give him those Counsels which were called Weak, to the last moment he suffered me in his Service: Then I was accused of holding Correspondence with the Prince, and it was every where said amongst them, That no better could be expected from a Man so related as I was to the *Bedford* and *Leicester* Families, and so allied to Duke *Hamilton*, and the Marquiss of *Halifax*. After this, Accusations of High Treason were brought against me, which, with some other Reasons relating to Affairs abroad, drew the King's Displeasure upon me, so as to turn me out of all without any consideration; and yet I thought I escaped well, expecting nothing less than the loss of my Head, as my Lord *Middleton* can tell, and I believe none about the Court thought otherwise; nor had it been otherwise, if my Disgrace had been deferred a day longer. All things being prepared for it, I was put out the 27th of *October*, the *Roman Catholicks* having been two Months working the King up to it, without intermission, besides the several Attacks they had made upon me before, and the unusual Assistance they obtained to do what they thought so necessary for the carrying on their Affairs, of which they never had greater hope than at that time, as may be remembred by any who were then at *London*. But you desired I would say something to you of *Ireland*, which I will do in very few words, but exactly true.

My Lord *Tyrconnel* has been so absolute there, that I never had the Credit to make an Ensign, or keep one in, nor to preserve some of my Friends, for whom I was much concerned, from the last Oppression and Injustice, tho I endeavour'd it to the utmost of my power; but yet with care and diligence, being upon the Place, and he absent, I diverted the calling a Parliament there, which was designed to alter the Acts of Settlement. Chief Justice *Nugent*, and Baron *Rice*, were sent over with a Draught of an Act for that purpose, furnished with all the pressing Arguments could be thought on to perswade the King; and I was offered Forty thousand Pounds for my Concurrence, which I told to the King, and shewed him at the same time the Injustice of what was proposed to him, and the prejudice it would be to that Country, with so good success, that he resolved not to think of it that year, and perhaps never. This I was helped in by some Friends, particularly my Lord *Godolphin* who knows it to be true, and so do the Judges before-named, and several others.

I cannot omit saying something of *France*, there having been so much talk of a League between the two Kings. I do protest I never knew of any; and if there were such a thing, it was carried on by other sort of Men last Summer. Indeed *French* Ships were offered to join with our Fleet, and they were refused; since the noise of the Prince's Design more Ships were offered, and it was agreed how they should be commanded if ever desired. I opposed to death the accepting of them, as well as any assistance of Men; and can say most truly, that I was the principal means of hindring both, by the help of some Lords with whom I consulted every day, and they with me, to prevent what we thought would be of great prejudice, if not ruinous to the Nation. If the Report is true, of Men, Ships, and Money intended lately for *England* out of *France*, it was agreed upon since I was out of business, or without my knowledg; if it had been otherwise, I believe no body thinks my Disgrace would have hapned. My greatest Misfortune has been to be thought the Promoter of those things I opposed and detested, whilst some I could name have been the Inventors and Contrivers of what they have had the Art to lay upon others; and I was often foolishly willing to bear what my Master would have

October. have done, tho I used all possible Endeavours against it. I lie under many other Misfortunes and Afflictions extreme heavy, but I hope they have brought me to reflect on the occasion of them, the loose, negligent, unthinking Life I have hitherto led, having been perpetually hurried away from all good Thoughts, by Pleasure, Idleness, the Vanity of the Court, or by Business: I hope, I say, that I shall overcome all the Disorders my former Life had brought upon me, and that I shall spend the remaining part of it in begging of Almighty God, that he will please either to put an end to my Sufferings, or to give me strength to bear them; one of which he will certainly grant to such as rely on him, which I hope I do, with the Submission that becomes a good Christian. I would enlarge on this Subject, but that I fear you might think something else to be the reason of it, besides a true sense of my Faults, and that obliges me to restrain my self at present. I believe you will repent in having engaged me to give you this account, but I cannot the doing of what you desire of me.

*Dutch
Fleet ready
to sail.
N. S.*

The 29th an Account was given, that the *Dutch Fleet* consisting of 52 Men of War, with a very numerous Attendance of Victuallers, and other Ships and Vessels for the Transportation of the Land Forces, sailed the Friday before, which was the 19th, from the *Flats* near the *Briel*, with the Wind at S. W. and by S. and the Prince of *Orange* embark'd on a Frigate of 28 or 30 Guns, and with him the Count of *Nassau* General of the Horse, the Count de *Solmes* Colonel of his Foot Guards; the Count de *Stirum*, the *Sieur Benting*, and the *Sieur Cuerkerker*, and the Marshal de *Schomberg* went on board such another Frigate. And the 20th most of the Fleet was seen in the Morning from *Schevelingue*, when the Wind coming more Westerly, and the next Night proving very stormy, it obliged them to come in again, having suffered considerable damage, 400 Horses being thrown overboard, and several dead Men, and one of their Men of War was stranded, and another disabled.

Losses reported to be great.

There was very little of this Story true, but it was a Report set on foot to deceive the Court here: and it had the effect which was expected, and the Priests began to boast very much of the Assistance they expected from the *Virgin Mary*, and the rest of the Saints, who had been powerfully solicited to confound this Heretical Fleet. The first of *November* we were again told from the *Hague*, that the Damage the *Dutch Fleet* had sustain'd by the late Storms, was greater than was at first reported; That there were 1500 Horses dead or unserviceable; That the Prince of *Orange* had lost most of his own Horses, and the Marshal de *Schomberg* the best of his; That his Son Count *Charles Schomberg* was in great danger, the Ship he was in having spent her Main-mast; That a Captain of Horse in the *Sieur Benting's* Regiment was missing, with his whole Troop; and two Captains of Foot Guards were likewise missing with their Companies: That to supply these Losses, a great many fresh Horses were ordered to be sent to the Fleet; and that it was said the Regiment of the Baron de *Frizes* should be imbarck'd: That in the mean time the Prince of *Orange* continued at *Helvoetsluys*, intending to sail again so soon as the Fleet was in a condition, and the Weather would permit. Thus was our Court at that time imposed upon for want of good Intelligence.

*Pr. of O's
Declaration
intercepted.*

About this time a parcel of the Prince of *Orange's* Declarations was intercepted in *London*. Upon reading that Expression in it, *That the Prince was most earnestly invited hither by divers of the Lords both Spiritual and Temporal, and by many Gentlemen and others*, the King sent for some of the Bishops again, and required of them a Paper under their hands in abhorrence of the Prince of *Orange's* intended Invasion by such a day: the following Declaration was then in the Press, and this Abhorrence was designed to be tacked to it; but the Bishops of *Canterbury*, *London*, *Peterborough* and *Rocheſter* (on whom only this Storm fell) refused to do it, as contrary to their privilege of Peerage, and their Profession, in promoting a War against a Prince so near ally'd to the Crown; and they earnestly desir'd this might be left to a Free Parliament. His Majesty hereupon was very much incensed against them, and parted from them with indignation. And thereupon the Jesuited Party at Court were so violently enraged, that as we are credibly informed (saith the Bishop of *Rocheſter*) one of the chief advised in a heat, they should all be imprisoned, and the Truth extorted from them by violence. By which it appears, no Solicitation could force the King to yield to the sitting of a Parliament, whatever hazard he ran.

Second Letter, P. 49.

Novem.

The 2d day of *November* there was published another Proclamation for the suppressing of the Prince of *Orange's* Declaration.

Whereas

1688.

Whereas the Prince of *Orange* and his Adherents, who design forthwith to invade our Kingdoms, in order thereunto have contrived and framed several treasonable Papers and Declarations, hoping thereby to seduce our People, and (if it were possible) to corrupt our Army, a very great number whereof being printed, several Persons are sent and employed to disperse the same throughout our Kingdoms: And altho all Persons (as well in Criminal as in other Cases) are bound to take notice of the Laws at their peril; yet to the intent that none may think to escape due punishment, or to excuse themselves when they shall be detected, by pretending ignorance of the Nature of their Crime, We are graciously pleased by this our Royal Proclamation, published by the Advice of our Privy Council, to forewarn and admonish all our Subjects, of what Degree or Quality soever, that they do not publish or disperse, repeat or hand about the said treasonable Papers or Declarations, or any of them, or any other Paper or Papers of such-like nature, without discovering and revealing the same as speedily as may be to some of our Privy Council, or some of our Judges, Justices of the Peace, or publick Magistrates, upon peril of being prosecuted according to the utmost severity of the Law.

Proclamation against the Pr. of O's Declaration.

This Proclamation had the same effect with all the rest of their Counsels; for Men suspected thereupon, that there was much more in the Declarations and Papers than they afterwards found, and accordingly became more desirous by far to see it; and the *Spanish* Ambassador here in *London* gave them (as I have been credibly informed) to whosoever desired them.

Has no effect.

For about almost three Weeks together the Wind stood perpetually West; during all which time the common Question was every Morning, *Where is the Wind to day?* And a Seaman was observed to curse the Dragon in *Cheapside*, for turning his Head where his Tail should be. But in the latter end of *October* the Wind came East, to the great Sorrow of the *Roman* Catholicks, and the Joy of the rest of the Nation. And when all Men expected the Invasion would fall on the North, the third of *November* between 10 and 11 of the Clock, the *Dutch* Fleet was discovered about half Seas over, between *Calice* and *Dover*, and about five this numerous Fleet was passed by that Town, steering a Channel course Westward, the Wind at E. N. E. a fresh Gale.

The same day Captain *Aylmer*, Commander of the *Swallow*, brought into the Downs a Fly-boat belonging to this Fleet, which had on board four Companies of the Foot of Colonel *Babington's* Regiment commanded by Major *Columbine*: They said the Prince sail'd from *Goree* on Thursday the first of *November*. This Ship had the misfortune to strike upon a Sand which had torn off her Rudder, without doing her any other damage, so that she was forced to float as the Winds and Seas drove her, and could hold no Course, which was the cause of her being taken: And this small piece of good Fortune turn'd to their disadvantage; Men, from the number taken in this Ship, concluding that the *Dutch* Army was three times as great as it really was.

Some of the Pr. of O's Forces taken.

The 4th day being Sunday, and the Birth-day of the Prince of *Orange*, the Fleet drove till four in the Afternoon; the Morning being spent in Sermons, and other divine Offices: And then it sailed again to the Westward.

By this time they found that the Prince of *Orange* his Declaration could not be totally suppress'd; and thereupon one of the scribbling Jesuits put out a Pamphlet against it, intituled, *The Dutch Design anatomized, or the discovery of the Wickedness and Unjustice of the intended Invasion, and a clear Proof, That it is the Interest of all the King's Subjects to defend his Majesty and their Country against it.* This Author has the confidence to tell us, *That the forged Heads of the Prince's Declaration, and the Bishops Ten Proposals, are known to be the Contrivance of the King's Enemies, framed on purpose to amuse the People, and make them believe the setting us at rights is the only Design of the Dutch; and till those Proposals be granted we are not safe* (pag. 29.) So that if the Design had miscarried, not only the Redress of those Grievances was utterly to be despaired of; but those that had made them to preserve the King from ruin, were already arraigned for his Enemies, and accordingly to be treated. Pag. 39. *If (saith he) out of peevish stubbornness some will sit still and not assist the King in this Juncture, or traitorously join with the Invaders, what can they expect from his victorious Arms, but the punishment due to their Perfidiousness and Cowardice?* So that here was no Mercy for any but those who were very active in the ruin

Novem. ruin of the Invaders; and by what followed upon the Defeat of the late Duke of *Monmouth*, all Men were able to make an Estimate what would be our Destiny now.

Another of the same Party comes forth soon after in print, under the Title of *Reflections upon his Highness the Prince of Orange's Declaration*; but then neither of these are suffered to print the Declaration it self, and therefore what they said of it, was neither regarded nor believed by any of the Protestants, and served only to exasperate the Nation the more against them.

The 5th of *November* the *Dutch* Fleet passed by *Dartmouth*, and it being a hazy foggy Morning, and full of Rain, they overshot *Torbay* where the Prince intended to land; but about nine of the Clock the Weather cleared up, and the Wind changed W. S. W. and the Fleet stood Eastward with a moderate gale, entering *Torbay*, and being then about four or 500 Sail in number. This change of the Wind was observ'd by Dr. *Burnet* to have been of no long duration, but immediately it chopped into another Corner, when it had executed its Commission.

Whilst the Prince was busy landing his Army in the West, the King put out here the 6th of *November* this following Declaration.

Declarati-
on against
the Pr. of
Orange up-
on his land-
ing in the
West.

AS We cannot consider this Invasion of our Kingdoms by the Prince of *Orange* without horror, for so unchristian and unnatural an Undertaking, in a Person so nearly related to Us; so it is matter of the greatest trouble and concern to us, to reflect upon the many Mischiefs and Calamities which an Army of Foreigners and Rebels must unavoidably bring upon our People. It is but too evident, by a late Declaration published by him, That notwithstanding the many specious and plausible Pretences it carries, *His Designs at the bottom do tend to nothing less than an absolute usurping our Crown and Royal Authority*: As may fully appear by his assuming to himself in the said Declaration the Regal Stile, requiring the Peers of this Realm, both Spiritual and Temporal, and all other Persons of all degrees, to obey and assist him in the execution of his Designs; a Prerogative inseparable from the Imperial Crown of this Realm. And for a more undeniable proof of his immoderate ambition, and which nothing can satisfy but the immediate possession of the Crown it self, he calls in question the Legitimacy of the Prince of *Wales*, our Son and Heir apparent; *Tho by the Providence of God, there were present at his Birth so many Witnesses of unquestionable Credit, as if it seem'd to have been the particular Care of Heaven on purpose to disappoint so wicked and unparallel'd an Attempt.*

But

And in order to the effecting of his ambitious Designs, he seems desirous in the close of his Declaration to submit all to the determination of a Free Parliament, hoping thereby to ingratiate himself with our People; tho nothing is more evident, than that a Parliament cannot be *Free*, so long as there is an Army of Foreigners in the Heart of our Kingdoms; so that in truth he himself is the sole Obstructor of such a Free Parliament: We being fully resolved, as We have already declared, so soon as by the Blessing of God our Kingdoms shall be delivered from this Invasion, to call a Parliament, which can no longer be liable to the least Objection of not being freely chosen, since We have actually restored all the Boroughs and Corporations of this our Kingdom to their antient Rights and Privileges: in which we shall be ready, not only to receive and redress all the just Complaints and Grievances of Our good Subjects, but also to repeat and confirm the Assurances We have already given to them in Our several *Declarations*, of our Resolution by God's Blessing to maintain them in their Religion, their Liberties and Properties, and all other their just Rights and Privileges whatsoever. Upon these Considerations, and the Obligations of their Duty and natural Allegiance, We can no ways doubt, but that all Our faithful and loving Subjects will readily and heartily concur and join with Us in the entire suppressing and repelling of those our Enemies and rebellious Subjects, who have so injuriously and disloyally invaded and disturbed the Peace and Tranquillity of these our Kingdoms.

But has no
effect.

All this while the Prince's Declaration was kept in, and few had seen it; but Men had now a general Idea of it. This Declaration in the mean time was pleasing to very few. It was penn'd with too much Spleen and Passion, to create suitable Thoughts in the Hearts of those who had less Interest in the Defeat of the Prince's Army than the R. C's had. The Birth of the Prince of *Wales* being thus

thus worded, made Men smile ; and they could presently recollect the Force and Value of the Deposers Evidence, which had now been some time published: but then nothing disgusted the generality of Men more, than to see the King continue so averse to the holding a Parliament, till the Prince was expelled out of the Nation, the Consequence of which was notorious. To what end, said they, should we fight, when the Prince of *Orange* offereth at first to submit to a Free Parliament? What, shall we drive him out that we may never have one that shall sit to do us good? Are the Jesuits such Reverers of Promises, as to regard them when they can chuse? No, let us have a Parliament while the Prince is here to see us have Right, or fight who will for me.

The 5th day of *November* an Account was sent from *Brixham*, that about 300 of the *Dutch* Fleet were come into *Torbay*; several of which came directly to *Brixham* Key, and landed some Soldiers; and the rest were sending them on shore in Boats, about five or 600 being then landed: and it was then said, the Prince of *Orange* was come on shore.

This Fleet consisted of 51 Men of War, 18 Fire-ships, and 330 Tenders for the carriage of Men, Horses, Arms and Ammunition. At his first Attempt he lost 400 Horse in a Storm, and a Vessel was separated with 400 Foot, which afterward came back to the *Texel*. Hereupon Order was given to the *Harlem* and *Amsterdam* Gazeteers to make a dreadful Representation of this Loss, which had its effect upon our credulous Court. The Fleet was soon got in order again, and sailed the first of *November*: There lay then an *English* Fleet in the *Buoy* and *Nore*, consisting of 34 Sail of Men of War, and there were three in the *Downs*; but the Wind was at E. N. E. and so they could not get out, and they had no mind besides to do it. At his landing the People in great numbers from the Shore welcom'd his Highness with loud Acclamations of Joy. The first that landed were six Regiments of *English* and *Scots* under *Mackay*, who met with no opposition, but a hearty Welcome, with all manner of Refreshments. Thus the 5th, 6th and 7th of *November* were employed in landing the Army, the Country-men bringing them in Provisions in great plenty.

The 6th of *November* an Account was sent from *Exeter*, That the Prince of *Orange* was marching towards that City; and they being in no condition to oppose him, the Bishop of that Diocess thought fit to leave the Town, and to go to *London*; which so pleased the King, that he ordered him to be translated to the See of *York* which was then vacant, the 16th of *November*.

November the 17th the King published this Account of the Forces brought over by the Prince of *Orange*.

Horse.	Foot.	Companies.
The Life-Guard.	Foot-Guards under Count <i>Solmes</i> ,	} 25
Regiment of Guards commanded by <i>Benting</i> .	2000	
<i>Waldeck's</i> Regiment.	<i>Mackay</i>	12
<i>Nassaw</i> .	<i>Balfort</i>	12
<i>Mompellian</i> .	<i>Talmaash</i>	12
<i>Ginckel</i> .	<i>Bellisfes</i>	12
Count <i>Vander Lip</i> .	<i>Washops</i>	12
The Prince's Dragoons.	<i>Ossories</i>	10
<i>Marrewis</i> Dragoons.	<i>Berkevelt</i>	10
<i>Scravemoer</i> .	<i>Holstein</i>	10
<i>Sapbroeck</i> .	<i>Wirtemberg</i>	12
<i>Folddorp</i> .	<i>Fagel</i>	10
<i>Seyde</i> .	<i>Nassaw</i>	10
<i>Zuylestein</i> .	<i>Carelfon</i>	12
In all,	<i>Brander</i>	10
Troopers	Prince of <i>Berkevelt</i>	10
Life Guard	In all 164 Companies, at 53 in	} 8692
<i>Benting's</i>	a Company	
Prince's Dragoons	Guards	2000
<i>Marrewis</i>		10692
3660	Total Horse and Foot	14352

Number of
the Pr. of
O's Forces.

Novem.



A List of the Fleet.

Men of War ————— 85
Fly-boats ————— 500

Pinks ————— 80
Fire-ships ————— 10
In all ————— 835

However Men were not easily then induced to believe, that this was above one half of the Number brought over; they concluding from the Number of Ships, and the Companies taken in the Fly-boat by the *Swallow-Frigat*, that the Army must be at least double to this Number; though afterwards it appear'd to be very near a true Account.

It has been desired that an exact Account of the then *English* Forces by Sea and Land, should be set forth for the satisfaction of all Men; but the Author of this History, being a very private Gent. is not able to do this any otherwise, than by shewing the State of the Army in the foregoing Summer, which is as followeth.

List of the
English
Forces.

The first Troop of Horse Guards com-
manded by *Lewis* Earl of *Feverham*.

The first Troop of Granadiers under
Captain *Thomas Gray*.

The second Troop of Guards under the
Duke of *Northumberland*.

The second Troop of Granadiers under
Captain *Rich. Potter*.

The third Troop of Guards commanded
by *John* Lord *Churchil*.

The third Troop of Granadiers under
Captain *John Vaughan*.

The fourth Troop of Guards commanded
by *Henry* Lord *Dover*.

The fourth Troop of Granadiers under
Captain *Henry Lutterel*.

The four Troops of Guards make 800.
Each Troop of Granadiers is 60 men,

240.

1. The King's Regiment of Foot Guards
commanded by the Duke of *Grafton*.

2. The Coldstreame Regiment under
Will. Earl of *Craven*.

3. The *Holland* Regiment under the Earl
of *Mulgrave*.

1. The Regiment of Horse call'd the Roy-
al Regiment, under the Earl of *Oxford*,
afterwards under the Duke of *Berwick*,
consisting of 9 Troops, each of 50 pri-
vate Men. 450.

2. The Queen's Regiment under Sir *John*
Lanier. 450.

3. The Earl of *Peterborough's*.

4. The Earl of *Plimouth's*, afterwards
Sir *John Fenwick's*.

5. Major General *Werden's*.

6. The Earl of *Arran's*.

7. The Earl of *Shrewsbury's*, afterwards
Colonel *Hamilton's*.

8. The Princess *Ann* of *Denmark's* com-
manded by the Earl of *Scarsdale*, af-

terwards by the Duke of *St. Albans*.

The Queen Dowager's Regiment under
Sir *John Talbot*.

Three Regiments of Dragoons each of
Eight Troops, and the Troops
of 50 Men.

1. The Royal Regiment under the Lord
Cornbury.

2. The Queen's Regiment under the
Duke of *Somerset*, afterwards under
Colonel *Canon*.

3. The Princess *Ann's* Regiment under
Colonel *John Berkeley*.

There were 14 old Regiments of Foot.

1. The Royal Regiment of Foot, under
the Earl of *Dunbarton*.

2. The Queen Dowager's under *Piercy*
Kirk.

3. Prince *George's* Regiment, comman-
ded by *Charles Littleton*.

4. The *Holland* Regiment, commanded
by *Theo. Ogletborpe*.

5. The Queen's Regiment commanded
by Colonel *Charles Trelawny*.

6. The Royal Regiment of Fusiliers un-
der the Lord *Dartmouth*.

7. The Princess *Ann's* Regiment under
Mr. *Fitz-James*.

8. Was commanded by *Henry Cornwall*.

9. *John* Earl of *Bath's*.

10. *Charles* Marquiss of *Worcester's*, af-
terwards the Lord *Montgomery's*.

11. *Henry* Earl of *Litchfield's*.

12. *Theophilus* Earl of *Huntington's*.

13. Sir *Edward Hales*.

14. Colonel *Arthur Herbert's*, afterwards
Colonel *Tuston's*.

In GARRISON,

At *Berwick* ————— 4 Companies

Carlisle ————— 1

Chepstow ————— 1

Chester ————— 5

Dover ————— 5

Gravesend } ————— 5
and *Tilbury* }

Gevernsey ————— 1

Holy-Island ————— 1

Hull ————— 8

Hurst

Hurst Castle	1	Sheerness	2
Jersey	3	Scilly Isle	1
Landguard Fort	1	Scarborough	1
St. Mawz	1	Tinmouth Castle	1
Pendeniz	5	Tower of London	8
Plimouth	13	Upner Castle	1
Portsmouth	23	Isle of Wight	4
Horse	1	Windsor Castle	2
Sandown Castle	1	York	2

1688.

The third day of November, the King gave Order to the Lord Brandon, and the Marquis de Miremont, Colonel Slingsby, Sir John Holman, and the Earl of Salisbury, to raise each a Regiment of Horse. New Regiments to be raised.

And also to raise these Regiments of Foot, to be commanded by the Duke of Newcastle, Colonel Gage, Colonel Richards, Colonel Skelton, Colonel Carne, Colonel Jo. Hall, Colonel Walcup, Colonel Elligott.

There was also a great Body of the Irish Nation, which was the Flower of that Army, consisting of three Regiments.

Besides there were then six Regiments of Horse and Foot call'd out of Scotland, and there were 17 Men added to each Company of the Old Forces upon the first certain intelligence of the Dutch design against England: so that the Army was much greater then, than it was in the Camp the Summer before.

And there was a Fleet which, the 23d of November, consisted in 43 Sail of Ships.

If to all this is added the Trained-Bands of each County amounting to 80000 Men at the least, Horse and Foot, the Revolution which followed, may well be esteemed one of the strangest that ever happened; a Prince so famed for Valour as James the II. and a Party so flushed with hopes, being in the space of Thirty eight Days reduced to nothing, with the loss only of about Ten Men on the Prince's side.

November the 8th, the Prince went from Chudleigh towards Exeter, where he arrived about One of the Clock, and made a very splendid Entry with his Army, the People much rejoicing at it, and looking upon him as their Deliverer from Popery and Slavery. That Night the Prince lodged at the Deanry, the Dean as well as the Bishop having left the Town.

The 9th, Dr. Burnet was sent to order the Priest and Vicars of the Cathedral not to pray for the pretended Prince of Wales, which they would not comply with till they were severely threatned. The same day the Prince went to the Cathedral, and was present at the singing *Te Deum*, after which his Declaration was publicly read to the People.

The same day the late King published this Order.

FOR the more punctual and regular Payment of Quarters in the March of our Forces, We do hereby strictly charge and require, That upon the Arrival of any Regiment, Troop, or Company, in any Town or Village, Publication be immediately made by Beat of Drum or otherwise, and Notice given to the Chief Magistrate, or Civil Officer of our Pleasure, That all Officers and private Souldiers shall duly pay their Quarters, and that such Chief Magistrate or Civil Officer do the next Morning come to the place where such Regiment, Troop, or Company is drawn up before their March, and make their complaint to the Commander in Chief of any wrong done, or Quarters left unpaid: Whereupon Our exprefs Will and Pleasure is, That such Commander in Chief shall cause satisfaction to be made to the Party injured, and the Debt to be paid. And if any Commander in Chief shall fail therein, We do hereby declare our Resolution upon complaint to punish such Commander in Chief, by cashiering or otherwise, and to cause such Injury to be redressed, and the Debt to be duly satisfied without delay.

The Souldiery had lived with very little Discipline in the times of Peace; and now the War was opening, became more insolent: So that the ill observing this Order, was one of those things which tended as much as any thing to the Ruin of that Army, they being reduced to a great Want of all Necessaries by the People, who feared their Payment, and hated both them and the Cause they were embarked in.

About

Novem. About the same time there was published a very advantageous Character of the Prince of Orange, which was greedily read, and industriously spread under hand.

The Pr. of Orange at Exeter. The Prince continued three days at Exeter, before any of the Gentry or Nobility appeared for him; which caused a great Wonder in his Army, and was published here the 18th, we being told, that some of the Rabble lifted themselves for him, and had Arms given them; but the Mayor and Clergy of the City stood their Ground.

The 11th of November, the King published an Account, That the Enemy seized all the King's Mony that was found in the West, and that they had taken 300 l. from the Collector of the Excise at Exeter, and committed the Officer to Custody; and that not one Person of Quality was yet come into them. This last was again confirmed by another Express the next day.

Lord Lovelace seized by the Militia. The 13th, an Account came from Cirencester, That the Lord Lovelace going to the Prince with between 60 and 70 Horse, was there seized by the Militia, by Order of the Duke of Beaufort, with about 13 of the Party, one Major Lorege being slain in the Action, together with his Son, Captain Lee, and Lieutenant Williams, and six Common Souldiers wounded; but notwithstanding this Resistance, the Lord Lovelace was at last forced to yield, and secured by the Duke of Beaufort: and this was very acceptable News at Whitehall; but the Joy was short, and not well founded.

Lord Cornbury and Langston with their Regiments go to the Pr. of Orange. The 14th, there came an Account from Salisbury, That upon the 12th the Lord Cornbury, pretending to have received Orders from his Majesty, caused the Royal Regiment of Horse, the Royal Regiment of Dragoons whereof he was Colonel, and the Duke of St. Alban's Regiment of Horse commanded by Colonel Langston, to march from Salisbury to Dorchester, where they refreshed themselves, and then they went to Bridport and Axminster. Several of the Officers thereupon apprehending some Design, asked the Lord Cornbury, as was said, whither they were going? Who answered, To beat up the Enemies Quarters at Honiton? But he finding the Royal Regiment of Horse, and several Officers of the Dragoons, did more and more suspect him; he marched with those that would follow him towards Honiton, Langston going before with the Regiment of St. Albans; but the Royal Regiment of Horse, and several of the Dragoons, return'd to Bridport. And the same day the Earl of Feversham came to Salisbury, to command the Forces in Chief. The next day these Regiments return'd from Bridport to Salisbury, and we were told, there were not ten Troopers of the Royal Regiment wanting; which sufficiently shews how firm they were in their Fidelity to his Majesty. But notwithstanding this Flourish, this News caused a great Consternation at Whitehall.

The 16th, there was published a Proclamation to prohibit the keeping of Exeter Fair, and other Fairs thereabouts, because many on that pretence went over to the Prince of Orange.

Dr. Lamplu made Archbishop of York, and Sir Jonathan Trelawny Bishop of Exeter. The same day the Reverend Dr. Lamplu, then Bishop of Exeter, was translated to the Archbishoprick of York, and Dr. Trelawny from the See of Bristol to that of Exeter: And his Majesty also ordered a publick Collection to be made thorow the City of London, the Liberties and Suburbs thereof, for the Relief of the poor and distressed Inhabitants of the City, who were by the Distractions of the Times, and the Interruption of Trade, reduced to great Want and Misery.

The 17th of November, the Archbishop of Canterbury, the Archbishop of York Elect, the Bishop of Ely, and the Bishop of Rochester presented this Petition to the King.

May it please Your Majesty,

The Bishops and Lords Petition to the King.

WE your Majesties most Loyal Subjects, in a deep sense of the Miseries of a War now breaking forth in the Bowels of this your Kingdom, and of the Danger to which your Majesty's Sacred Person is thereby like to be exposed, as also of the Distractions of your People by reason of their present Grievances, do think ourselves bound in Conscience of the Duty we owe to God and our Holy Religion, to your Majesty and our Country, most humbly to offer to your Majesty, That in our Opinion, the only visible way to preserve your Majesty, and this your Kingdom, would be the Calling a Parliament, regular and free in all its Circumstances.

We therefore most earnestly beseech your Majesty, That You would be graciously pleased with all speed to call such a Parliament; wherein we shall be most ready to promote such Counsels and Resolutions of Peace and Settlement in Church and State, as may conduce to your Majesty's Honour and Safety, and to the quieting the Minds of your People.

We

*We do likewise humbly beseech your Majesty, in the mean time to use * such Means for the preventing the Effusion of Christian Blood, as to your Majesty shall seem most meet.* 1688.

W. Cant.	Clarendon.	Nom. Ebor.	T. Oxon.
Grafton.	Burlington.	W. Asaph.	Paget.
Ormond.	Anglesey.	F. Ely.	Chandois.
Dorset.	Rocheſter.	Tho. Roffen.	Oſulſton.
Clare.	Newport.	Tho. Petriburg.	

It was ſaid there was a ſharp Answer given to this excellent Petition, which was the Senſe of all the King's Friends in the Nation, except a few deſperate Men, whoſe Crimes had rendred them incapable of the Mercy of a Parliament, and ſome others who deſigned the Ruin of the *English* Liberties and Religion, with the utmoſt hazard of the King and Kingdom.

The ſame day in the Afternoon the King left the City, and with his Royal Highneſs Prince *George* of *Denmark* went to *Windsor*, and the next Morning he went to *Salisbury*; appointing in his abſence the Privy Council to meet for the Diſpatch of all Affairs as occaſion ſhould require.

The 19th of *November*, the Lords for their own Vindication publiſhed the Petition afore-repreſented; and the next day the King's Answer to it was printed alſo, which was this.

His Majesty's moſt Gracious Answer.

My Lords,
WHAT you aſk of Me, I moſt paſſionately deſire; and I promiſe you UPON THE FAITH OF A KING, That I will have a Parliament, and ſuch an one as you aſk for, as ſoon as ever the Prince of Orange has quitted this Realm: For how is it poſſible a Parliament ſhould be Free in all its Circumſtances, as you petition for, whiſt an Enemy is in the Kingdom, and can make a Return of near an Hundred Voices?

The King's Answer, &c.

This was ſufficiently diſobliging, conſidering the State of Affairs, and the Temper of the Nation at that time; but the Jeſuits were ſo enraged at the printing the Petition, that they publiſhed a Paper with this Title, *Some Reflections upon the humble Petition to the King's moſt Excellent Maſteſty, of the Lords Spiritual and Temporal who ſubſcribed the ſame, preſented November the 17th 1688.* which follows in theſe Words.

THAT the Peace-makers are bleſſed, is a Truth our Saviour hath left recorded in the holy Scriptures; and thoſe are truly to be honoured, who can contribute any thing to ſo happy a work: But that either this way of petitioning, or the matter in it deſired, is likely to produce ſo great a Bleſſing, is a Queſtion worthy thy ſerious Conſideration.

Reflections of the Jeſuits on the Lords Petition.

I ſhall firſt therefore take notice of ſome of the dubious Expreſſions in the Petition, and then lay down ſome few Reaſons why I judg the Petition in it ſelf unſeaſonable; and laſtly endeavour to ſhew how unpracticable the ſummoning of a Parliament is at this preſent.

The Expreſſion, *That a War is now breaking forth in the Bowels of the Kingdom*, ſhews, that their Lordſhips either know or foreſee that a Civil War is fomenting; and I pray God this Petition do not, more than any thing elſe, occaſion it; or that the Prince of *Orange* intends to carry on the War through the Bowels of the Kingdom, whereas thoſe that wiſh well to the King, hope it will be kept in and about the parts where he landed.

Secondly, As to the *Diſtraction of the People under their preſent Grievances*; it ſeems to many true Members of the Church of *England*, that it had been every whit as agreeable to your Lordſhips Character to have rather thank'd his Maſteſty for his late extraordinary and gracious Favours, than to have amus'd the Subjects at this time with the Apprehenſions of *Grievances*, without any Intimation what they were; for it is moſt manifeſt, that by ſuch remonſtrating of Grievances, the People were inſtigated to that bloody Rebellion in 1641.

* The means here hinted at was a Treaty with the Prince, and the Nobility and Gentry who had declared for Him.

Novem.

As to the Expression, that your Lordships think your selves bound in Conscience of the Duty you owe to God and our holy Religion, and to his Majesty and our Country, most humbly to offer to his Majesty, that in your opinion the only visible way to preserve his Majesty and his Kingdom, would be the calling of a Parliament regular and free in all its Circumstances: I hope to make out, that the summoning of a Parliament now, is so far from being the only way to effect these things, that it will be one of the principal causes of much Misery to the Kingdom; and I am sure both our Duty to God and our holy Religion, as well as to his Majesty and our Country, doth plainly enjoin us to use one other effectual means to obviate the Miseries of a Civil or Invasive War; which is, the keeping inviolably our Allegiance to our Sovereign, and effectually joyning with him to resist all his Enemies, whether Foreign Aggressors, or Native Rebels: And it is much to be wondred at, that this Duty, so well known to your Lordships, should never be mention'd.

As to the Regular and Free Parliament in all its Circumstances, I shall now proceed to prove, that at this Season all our Wishes for such a one are impotent, and must be ineffectual.

First, It is a known Truth, and sadly experienced, That whenever the People are in a great Ferment, and contrary Parties are bandying one against another, the giving liberty to the People to meet in great Bodies, is dangerous to the Government; and you your selves not long since were of that opinion, when you oppos'd the vehement Addresses to King *Charles II.* for summoning a Parliament, when he judged it would strengthen the Faction against him: and you very well know, when great heats were among the Members, and unreasonable Votes were pass'd against the Lineal Succession, and other matters endangering the Government, the King was obliged to prorogue some Parliaments from time to time, that such separation might produce more sober Councils. And then the great cry was, That for the Preservation of the King's Person and our Religion, they were so earnest to have a Parliament meet.

Secondly, ' It is impossible there can be a regular and free Election, while the Electors are so violently divided; one part of them being so vehement Wishers of the Success of the Prince of *Orange*, that they slight all the Miseries that unavoidably will fall on the Country thereby, upon the bare hope that he will preserve Religion and Property. Now in such a time as this, when, if we will give credit to the Prince's Declaration, there are so many that have invited him, can it be safe for the King to grant a Commission, even to the People, to assemble in such great Confluxes, as may afford them opportunity of listing themselves against him?

Thirdly, If we yield, that Elections can be without outrageous Routs; yet when the Parliament is met, it is requisite by the very Constitution, that every part of that August Assembly should be free in their Assent or Dissent to what is to be debated; and that Freedom is as fundamentally necessary in the person of the King, as in the Members of either Houses; and that one of the proper and necessary Circumstances of that Convention ought to be, that all the Members shall be present. I shall therefore shew, that at this time none of these can be practicable.

First, As to the King: While such powerful Enemies are in the Country, and so many ready to catch any opportunity to joyn with them, how can the King be absent from his Army? The providing for, cherishing, animating, and ordering of which, will sufficiently employ the most indefatigable of Princes. And none can think that any Prince can watch the motions of such an Enemy, and time his opportunities of assaulting them, or defending himself, and at the same time be embarrass'd with a party in the Houses, that may as dangerously be levelling their Votes against him, as the Invaders are their Artillery.

However there can be no freedom to the King, how undaunted soever, because the impending Storm may so affright his Council, that they may advise to the yielding of some things that may be of ill consequence to the Government; for whatever lessens the King's just Prerogative, as this may do, in depriving him of exercising his Negative Voice, is at one time or other prejudicial to his Subjects.

Secondly, As to the Lords: There can be no free Convention of them, since several of them have so far forgot their Allegiance, that they are actually in the Prince of *Orange's* Army, and many other Lords are attending the King, and their Charges; so that while these Armies are in being, they cannot

not ' meet in their House, but by their Proxies; which I suppose none can expect 1688.
' will be allowed to the Peers that are in Rebellion, if we may be allowed to call
' that such, which all our Laws so adjudgeth.

The like may be said for the House of Commons: All the Gentlemen of Interest in their Country, by their Allegiance are bound to serve the King in his Wars at his Command, and will be few enough to keep their respective Counties in Peace. And I am confident none will think such a Parliament, as this ought to be that is desir'd, should consist of such who have been little conversant in publick Affairs, or have small Interests in their Counties.

So, that upon the whole, I cannot see how any Free Parliament can meet, unless it be such a Convention as the *Saxons* obtained of the *Britains* on *Salisbury Plain*, where the eminentest of both people were to meet unarmed, and there amicably adjust matters in difference; but it is well known, that the *Saxons* under their long Coats had their Weapons, wherewith they slew the Flower of the British Nobility, and thereby rendred their Conquest more easy.

It is true, such a Stratagem is not now like to take effect, but the King and those that wish well to the Succession of the Monarchy, and the preservation of their Country, must needs fear, that there will be as dangerous Contests within the Houses, as may be in the open Fields; and thereby little can be expected from such a Parliament, which can redound to the publick good of the Kingdom.

Fourthly, Those Spiritual and Temporal Lords that have signed this Petition, either have not, or they have consulted the Prince of *Orange*, before they proposed this Advice.

If they have not consulted him, they ought to satisfy the King how they can warrant a Cessation of Arms on the Prince's side, or how they can hinder him from advancing further to awe Debates in the Houses; or what assurance they can give, that he will acquiesce in the free Decision of the matters proposed; or that he will peaceably depart out of the Land when things are settled, and will not pretend a stay here, till the vast Sums be paid him that he hath expended on this occasion; or lastly, will not find new occasions of questioning the security of performance of any Agreement to be made.

If they have consulted the Prince, they ought to shew his Commission, authorizing them to make Proposals, or shew the Heads of those Grievances he demands to be redressed; for some they urge in their Petition there are, which distract the people; ' but I suppose they are more careful of their Heads, than to own any such Correspondence.

If these Noble Persons would have effectually saved Effusion of Blood, they would rather have used all their Interest to have kept the Prince of *Orange* in his Country, tho' with his Army and Fleet in readiness, and have obtained his sending his Demands, and have waited like dutiful Subjects till the King had convened his Parliament, and have tried how Gracious the King would have been in redressing Grievances, and securing Religion and Property; and after the King's refusal there might have been some colour for his Invasion, but none upon any pretence whatsoever to have invited him to it.

Fifthly, Those who will not openly, and with a bare face justify the Prince of *Orange*'s Pretensions, cannot think it consistent with the Honour of the King to stoop so low as to summon a Parliament at the direction of an Invader, who can never be conceived to desire it with that eagerness, if he did not judg it very much conduceable to his Interest, for which very reason the King ought to be jealous of such Councils.

And I humbly conceive those Peers have not sufficiently considered how prejudicial this sort of Address may be to the King's Affairs, and how much it will conduce to the further alienating of the Affections of the Subjects from the King, when they shall hear of his denial to comply at present with this Expedient, and never hear the Reasons thereof, since they have not divulged his Majesties Gracious Answer, together with their Petition; and I am sure, at this time the putting the King upon such a *Dilemma*, is the greatest disservice can be done him, and very little inferior to joining with his Enemies.

I might add many more Arguments to prove, that the King cannot in Honour yield to this Advice, without quitting that undeniable Prerogative the Laws give him, of making War, or concluding Peace, if those matters should be submitted to the Arbitrament of the two Houses; or owning that the Allegiance of his Subjects did not bind them to assist him in the defence of his Crown and Dominions,

Novem. without the Votes of a Parliament. But I shall conclude with some few Considerations I humbly offer to those Right Reverend, and Noble Lords, and all those who are of the same Judgment with them, to reflect upon.

First then, I desire them to consider, whether it will not be more glorious, and agreeable to the Principles of our Religion, effectually to assist our undoubted lawful Sovereign, than to suffer him to be dethroned solely because he is a Roman Catholick; since the Papists themselves, tho they never take the Oath of Allegiance or Supremacy, yet do, and ever have declared, that if any Roman Catholick Prince, yea the Pope himself in person, should invade any King of *England*, tho a Protestant, yet that they are bound to defend such a King against them, as much as if they were *Turks*.

Secondly, Whether since the true and original Cause of this Invasion, and consequently of all the Blood shed, these Lords so earnestly desire to prevent, hath not been the denying to concur with the King in establishing of Liberty of Conscience, even with such security to the Protestant Religion, and Church of *England*, as could be desired. And whether in all human probability, that would not be more conduceable to establish the publick Tranquillity of the Kingdom, and its increase in Wealth and People, and consequently the most efficacious means to reduce the *Dutch* to be just and tractable Allies and Neighbours, rather than any thing can be effected by this Invasion, or the truckling to such avowed Enemies to our Country, our Religion, and our King.

Thirdly, Whether the King's entire Trust in the Fidelity of his own Subjects for his defence, and not admitting of foreign Aids, that were, unsought for, proffered, do not oblige all that have any sense of Gratitude or Duty, to aid him to the very utmost against such Foreigners as so unnaturally, and so unjustly invade him; and when it hath pleased God to give success to the King's just Arms, we are not to doubt, but the King, according to his solemn Promise in his late Royal Declaration, will speedily call a Parliament, and in it redress all such Grievances as his people can justly complain of, with a full and ample security to the Church of *England*, and all his Protestant Subjects; which it will much more be our Interest to have in a truly harmonious, and Free-parliamentary way at that time established, than at this present in a tumultuary and precipitate haste so patched up, as will not be durable; and the more earnestly we desire to see this good work to be set upon, the more haste the Nobility and Gentry should make to expel those who hindred the Convention of that Parliament, which was much more likely to have settled matters to the content of the King and his People, than this Invasion can ever hope to effect.

*The King
advised to
call a Par-
liament.*

*But the Je-
suits oppose
it.*

Several of the Privy Council had before this advised his Majesty to call a Parliament without delay, and before his Subjects asked it; assuring him, that if any Attempt were made upon his Royal Person or Authority, it would certainly engage many honest Men to stand by him, and besides it would always be in his power to prorogue or dissolve it, and at last to trust to his Land and Sea Forces. But the Jesuits, who intirely possessed him on the other hand, represented, that he would be in danger to see his great Forces which he had then on foot, unite with his Parliament against him, or at least, a discontent and division would arise amongst them; but if he stood his ground, and suffered no Parliament to meet, all would faithfully stick to him, so long as he absolutely relied upon his Forces; and accordingly this last Advice was it he took, and would never be brought off it, till it ended in his Ruin.

The Prince of *Orange's* Declaration could be no longer suppress'd, and therefore it was suffered about this time to be printed with a short Preface, and some modest Remarks (as the Author pretends) on it, in 4to.

The Prince of *Orange's* Declaration, shewing the Reasons why he Invades *England*; with a short Preface, and some modest Remarks on it.

THERE having been various Discourses about the Reasonableness and Justice of the *Dutch* Invasion, the Prince's great Love and special Care of the Protestant Religion, and English Protestants, set forth in the most charming manner; and the Desperateness of the Protestants State and Condition, painted in the blackest and most frightful Colours; our Natural Liege Lord, notwithstanding his Unparallel'd Grace to all, represented as de-

designing the greatest Cruelty against his own Subjects; strange Stories of ill things whis- 1688.
pered, and nothing less than a Secret League between his Majesty of Great Britain, and
the French King, to extirpate all Protestants, entred into. These Reports are with so much
Art and Cunning spread, as to startle the most * considering Protestants of all persuasions,
whence nothing could be more eagerly desired, than a sight of the Prince of Orange's De-
claration. For the Expectations of most Men are, That some extraordinary Secrets, some
hidden Works of Darknes should be reveal'd and brought to light, as generally those, who
yet never saw the Prince's Declaration, do still believe: But there not being one word of any
such Treaty, we cannot see why it is that the Prince comes over; and if others impartially
peruse the Declaration, we doubt not but 'twill convince them, that they give no Reason pow-
erful enough to justify so Bloody an Enterprize, as this in the Issue must needs be.

We will therefore give you a true Copy of the Prince's Declaration, word for word, as
it runs in the West.

The Declaration of his Highness, William Henry, by the Grace of God,
Prince of Orange, &c. of the Reasons inducing him to appear in Arms
in the Kingdom of England, for preserving of the Protestant Religion,
and for restoring the Laws and Liberties of England, Scotland, and Ire-
land.

1. IT is both certain and evident to all men, that the publick Peace and Happi-
ness of any State or Kingdom cannot be preserved, where the Laws, Liber-
ties, and Customs established by the lawful Authority in it, are openly transgressed
and annulled: More especially where the Alteration of Religion is endeavour-
ed, and that a Religion which is contrary to Law is endeavoured to be intro-
duced: Upon which those who are most immediately concerned in it, are indis-
pensably bound to endeavour to preserve and maintain the established Laws, Li-
berties and Customs, and above all, the Religion and Worship of God that is esta-
blished among them; and to take such an effectual care, that the Inhabitants of the
said State or Kingdom, may neither be deprived of their Religion, nor of their
Civil Rights: Which is so much the more necessary, because the Greatness and Se-
curity both of Kings, Royal Families, and of all such as are in Authority, as well
as the Happiness of their Subjects and People, depend in a most especial manner
upon the exact Observation and maintenance of these their Laws, Liberties and
Customs.

2. Upon these grounds it is that we cannot any longer forbear to declare that *Evil Coun-
sellors.*
to our great Regret, we see that those Counsellors, who have now the chief Credit
with the King, have overturned the Religion, Laws and Liberties of those Realms,
and subjected them in all things relating to their Consciences, Liberties, and Pro-
perties, to Arbitrary Government, and that not only by secret and indirect ways,
but in an open and undisguised manner.

3. Those Evil Counsellors for the advancing and colouring this with some plau- *Dispensing
Power.*
sible pretexts, did invent and set on foot the King's dispensing Power, by virtue of
which they pretend, that according to Law, he can suspend, and dispense with the
Execution of the Laws that have been enacted by the Authority of the King and
Parliament, for the security and Happiness of the Subject, and so have rendred
those Laws of no effect; tho there is nothing more certain, than that as no Laws
can be made but by the joynt concurrence of King and Parliament, so likewise
Laws so enacted, which secure the publick peace, and safety of the Nation, and
the Lives and Liberties of every Subject in it, cannot be repealed or suspended but
by the same Authority.

4. For tho the King may pardon the punishment that a Transgressor has incurred, *Arbitrary
Power.*
and to which he is condemned, as in the Cases of Treason or Felony; yet it can-
not be with any colour of Reason inferred from thence, that the King can entirely
suspend the Execution of those Laws relating to Treason or Felony; unless it is
pretended, that he is clothed with a Despotick and Arbitrary Power; and that
the Lives, Liberties, Honours, and Estates of the Subjects depend wholly on his
good Will and Pleasure, and are entirely subject to him, which must infallibly fol-

* They did so whilst the danger hung over our heads, tho' now nothing less dreadful.

Novem. low, on the King's having a Power to suspend the Execution of the Laws, and to dispense with them.

*Judges
perverted.*

5. Those Evil Counsellors, in order to the giving some Credit to this strange and execrable Maxim, have so conducted the Matter, that they have obtained a Sentence from the Judges, declaring, that this dispensing Power is a Right belonging to the Crown; as if it were in the Power of the Twelve Judges to offer up the Laws, Rights, and Liberties of the whole Nation to the King, to be disposed of by him Arbitrarily and at his Pleasure, and expressly contrary to Laws enacted for the Security of the Subjects. In order to the obtaining this Judgment, those Evil Counsellors did before-hand examine secretly the Opinion of the Judges, and procured such of them as could not in Conscience concur in so pernicious a Sentence, to be turned out, and others to be substituted in their rooms, till by the Changes which were made in the Courts of Judicature, they at last obtained that Judgment. And they have raised some to those Trusts, who make open Profession of the Popish Religion, tho those are by Law rendred incapable of all such Employments.

*Protestant
Religion
under-
min'd.*

6. It is also manifest and notorious, That as his Majesty was upon his coming to the Crown, received and acknowledged by all the Subjects of *England, Scotland, and Ireland*, as their King, without the least opposition, tho he made then open profession of the Popish Religion; so he did then promise, and solemnly swear at his Coronation, That he would maintain his Subjects in the free Enjoyment of their Laws and Liberties; and in particular, that he would maintain the Church of *England* as it was established by Law. It is likewise certain that there have been at divers and sundry times several Laws enacted for the Preservation of those Rights and Liberties, and of the Protestant Religion; and among other Securities it has been enacted, That all Persons whatsoever, that are advanced to any Ecclesiastical Dignity, or to bear Office in either University, as likewise all others that should be put in any Employment, Civil or Military, should declare that they were not Papists, but were of the Protestant Religion, and that by their taking the Oaths of Allegiance and Supremacy, and the Test; yet these Evil Counsellors have in effect annulled and abolished all those Laws, both with relation to Ecclesiastical and Civil Employments.

*Liberties
of the
Church of
England
invaded.*

7. In order to Ecclesiastical Dignities and Offices, they have not only without any colour of Law, but against most express Laws to the contrary, set up a Commission of a certain number of Persons, to whom they have committed the Cognisance and Direction of all Ecclesiastical matters; in the which Commission there has been, and still is one of his Majesty's Ministers of State, who makes now publick profession of the Popish Religion, and who at the time of his first professing it, declared that for a great while before he had believed that to be the only true Religion. By all this, the deplorable State to which the Protestant Religion is reduced, is apparent, since the Affairs of the Church of *England* are now put into the hands of persons who have accepted of a Commission that is manifestly illegal, and who have executed it contrary to all Law; and that now one of their chief Members has abjured the Protestant Religion, and declared himself a Papist, by which he is become incapable of holding any publick Employment. The said Commissioners have hitherto given such proof of their Submission to the Directions given them, that there is no reason to doubt but they will still continue to promote all such designs as will be most agreeable to them. And those Evil Counsellors take care to raise none to any Ecclesiastical Dignities, but persons that have no Zeal for the Protestant Religion, and that now hide their unconcernedness for it, under the specious pretence of Moderation. The said Commissioners have suspended the Bishop of *London*, only because he refused to obey an Order that was sent him to suspend a worthy Divine, without so much as citing him before him to make his own Defence, or observing the common forms of Process. They have turned out a President chosen by the Fellows of *Magdalen* College, and afterwards all the Fellows of that College, without so much as citing them before any Court that could take legal Cognisance of that Affair, or obtaining any Sentence against them by a competent Judge. And the only reason that was given for turning them out, was, their refusing to chuse for their President, a person that was recommended to them by the Instigation of those Evil Counsellors, tho the Right of a Free Election belonged undoubtedly to them. But they were turned out of their Free-holds contrary to Law, and to that express provision in the *Magna Charta*, That no Man shall lose Life or Goods, but by the Law of the Land. And now these Evil Counsellors have put the said College wholly into the hands of

*Ecclesiasti-
cal Com-
missions il-
legally set
up.*

papists, tho as is abovesaid, they are incapable of all such Employments, both by the Law of the Land, and the Statutes of the College. These Commissioners have also cited before them all the Chancellors and Archdeacons of *England*, requiring them to certify to them the Names of all such Clergy-men as have read the King's Declaration for Liberty of Conscience, and of such as have not read it, without considering that the reading of it was not enjoined the Clergy by the Bishops who are their Ordinaries. The Illegality and Incompetency of the said Court of the Ecclesiastical Commissioners was so notoriously known, and it did so evidently appear, that it tended to the Subversion of the Protestant Religion, that the Most Reverend Father in God, *William* Archbishop of *Canterbury*, Primate and Metropolitan of all *England*, seeing that it was raised for no other end but to oppress such persons as were of eminent Virtue, Learning and Piety, refused to sit, or to concur in it.

8. And tho' there are many express Laws against all Churches or Chappels for the exercise of the Popish Religion, and also against all Monasteries and Convents, and more particularly against the Order of the Jesuits, yet those Evil Counsellors have procured Orders for the building of several Churches and Chappels for the exercise of that Religion. They have also procured divers Monasteries to be erected, and in contempt of the Laws, they have not only set up several Colleges of Jesuits in divers places for the corrupting of the Youth, but have raised up one of the Order to be a Privy Counsellor, and a Minister of State. By all which they do evidently shew, that they are restrained by no rules of Law whatsoever, but that they have subjected the Honours and Estates of the Subjects and the establish'd Religion, to a Despotick Power, and to Arbitrary Government. In all which they are served and seconded by those Ecclesiastical Commissioners.

9. They have also followed the same Methods with relation to Civil Affairs; for they have procured orders to examine all Lords Lieutenants, Deputy-Lieutenants, Sheriffs, Justices of Peace, and all others that were in any publick Employment, if they would concur with the King in the repeal of the Test and Penal Laws, and all such whose Consciences did not suffer them to comply with their designs, were turned out, and others were put in their places, who they believed would be more compliant to them in their designs of defeating the Intent and Execution of those Laws, which had been made with so much care and caution for the security of the Protestant Religion. And in many of these places they have put professed Papists, tho the Law has disabled them, and warranted the Subjects not to have any regard to their Orders.

10. They have also invaded the Priviledges, and seized on the Charters of most of those Towns that have a right to be represented by their Burgeses in Parliament, and have procured Surrenders to be made of them, by which the Magistrates in them have delivered up all their Rights and Priviledges, to be disposed of at the pleasure of those Evil Counsellors, who have thereupon placed new Magistrates in those Towns, such as they can most entirely confide in; and in many of them they have put Popish Magistrates, notwithstanding the Incapacities under which the Law has put them.

11. And whereas no Nation whatsoever can subsist without the administration of good and impartial Justice, upon which mens Lives, Liberties, Honours and Estates do depend, those Evil Counsellors have subjected these to an Arbitrary and Despotick Power: In the most important Affairs they have studied to discover beforehand the Opinions of the Judges, and have turned out such as they found would not conform themselves to their intentions, and have put others in their places, of whom they were more assured, without having any regard to their Abilities. And they have not stuck to raise even professed Papists to the Courts of Judicature notwithstanding their Incapacity by Law, and that no regard is due to any Sentences flowing from them. They have carried this so far, as to deprive such Judges, who in the common Administration of Justice, shewed that they were governed by their Consciences, and not by the Directions which the others gave them. By which it is apparent, that they design to render themselves the absolute Masters of the Lives, Honours and Estates of the Subjects, of what rank or dignity soever they may be; and that without having any regard either to the Equity of the Cause, or to the Consciences of the Judges, whom they will have to submit in all things to their own Will and Pleasure; hoping by such ways to intimidate those who are yet in Employment, as also such others as they shall think fit to put in the rooms of those whom they have turned out; and to make them see what they must

Novem. must look for, if they should at any time act in the least contrary to their good liking; and that no Failings of that kind are pardoned in any Persons whatsoever. A great deal of Blood has been shed in many places of the Kingdom, by Judges governed by those Evil Counsellors, against all the Rules and Forms of Law, without so much as suffering the Persons that were accused to plead in their own Defence.

*Papists
made
Judges.*

12. They have also, by putting the Administration of Justice in the hands of Papists, brought all the Matters of Civil Justice into great Uncertainties, with how much Exactness and Justice soever that these Sentences may have been given: For since the Laws of the Land do not only exclude Papists from all Places of Judicature, but have put them under an Incapacity, none are bound to acknowledge or to obey their Judgments, and all Sentences given by them are null and void of themselves: So that all Persons who have been cast in Trials before such Popish Judges, may justly look on their pretended Sentences, as having no more Force than the Sentences of any private and unauthorized Person whatsoever. So deplorable is the Case of the Subjects, who are obliged to answer to such Judges, that must in all things stick to the Rules which are set them by those Evil Counsellors, who as they raised them up to those Employments, so can turn them out at pleasure, and who can never be esteemed lawful Judges; so that all their Sentences are in the Construction of the Law, of no Force and Efficacy. They have likewise disposed of all Military Employments in the same manner: For tho the Laws have not only excluded Papists from all such Employments, but have in particular provided, that they should be disarmed; yet they, in contempt of these Laws, have not only armed the Papists, but have likewise raised them up to the greatest Military Trust, both by Sea and Land, and that Strangers as well as Natives, and *Irish* as well as *English*, that so by those means, having rendered themselves Masters both of the Affairs of the Church, of the Government of the Nation, and of the Courts of Justice, and subjected them all to a Despotick and Arbitrary Power, they might be in a capacity to maintain and execute their wicked Designs by the assistance of the Army, and thereby to enslave the Nation.

*Instances
of Arbitra-
ry Power in
Ireland,*

13. The dismal Effects of this Subversion of the Established Religion, Laws and Liberties in *England*, appear more evidently to us by what we see done in *Ireland*; where the whole Government is put in the hands of Papists, and where all the Protestant Inhabitants are under the daily fears of what may be justly apprehended from the Arbitrary Power which is set up there: which has made great numbers of them leave that Kingdom, and abandon their Estates in it, remembering well that cruel and bloody Massacre which fell out in that Island in the Year 1641.

*In Scot-
land.*

14. Those evil Counsellors have also prevailed with the King to declare in *Scotland*, That he is clothed with *Absolute Power*, and that all the Subjects are bound to obey him without Reserve: Upon which he has assumed an Arbitrary Power both over the Religion and Laws of that Kingdom; from all which it is apparent what is to be looked for in *England*, as soon as Matters are duly prepared for it.

*Oppression
countenan-
ced.*

15. Those great and insufferable Oppressions, and the open Contempt of all Law, together with the Apprehensions of the sad Consequences that must certainly follow upon it, have put the Subjects under great and just Fears, and have made them look after such lawful Remedies as are allowed of in all Nations; yet all has been without effect. And those Evil Counsellors have endeavoured to make all Men apprehend the loss of their Lives, Liberties, Honours and Estates, if they should go about to preserve themselves from this Oppression, by Petitions, Representations, or other means authorised by Law. Thus did they proceed with the Arch-bishop of *Canterbury*, and the other Bishops, who having offered a most humble Petition to the King, in Terms full of respect, and not exceeding the number limited by Law, in which they set forth in short the Reasons for which they could not obey that Order; which, by the Instigation of those Evil Counsellors was sent them, requiring them to appoint their Clergy to read in their Churches the Declaration for *Liberty of Conscience*, were sent to Prison, and afterwards brought to a Trial, as if they had been guilty of some enormous Crime. They were not only obliged to defend themselves in that pursuit, but to appear before professed Papists who had not taken the Test, and by consequence were Men whose Interest led them to condemn them; and the Judges that gave their Opinion in their favours, were thereupon turned out.

16. And yet it cannot be pretended, that any Kings, how great soever their Power has been, and how Arbitrary and Despotick soever they have been in the exercise of it, have ever reckoned it a Crime for their Subjects to come in all Submission and Respect, and in a due number, not exceeding the limits of the Law, and represent to them the Reasons that made it impossible for them to obey their Orders. Those Evil Counsellors have also treated a Peer of the Realm as a Criminal, only because he said, That the Subjects were not bound to obey the Orders of a Popish Justice of Peace; tho it is evident, that they being by Law rendered incapable of all such Trusts, no regard is due to their Orders. This being the Security which the People have by the Law for their Lives, Liberties, Honours and Estates, that they are not to be subjected to the Arbitrary proceedings of Papists, that are, contrary to Law, put into any Employments Civil or Military.

1688.
Evil Coun-
sellors en-
courag'd.

17. Both We our self, and our dearest and most entirely beloved Consort the Princess, have endeavoured to signify, in Terms full of respect to the King, the just and deep Regret which all these Proceedings have given us: And in compliance with his Majesty's Desires signified to us, We declared both by Word of mouth to his Envoy, and in Writing, what our Thoughts were touching the Repealing of the *Test and Penal Laws*; which we did in such a manner, that we hoped we had proposed an Expedient by which the Peace of those Kingdoms, and a happy Agreement among the Subjects of all Perswasions might have been settled: but those Evil Counsellors have put such ill Constructions on these our good Intentions, that they have endeavoured to alienate the King more and more from us; as if we had designed to disturb the Quiet and Happiness of the Kingdom.

The Prince
and Prin-
cess of O-
range's
Thoughts
about the
Penal
Laws and
Test.

18. The last and great Remedy for all those Evils, is, *the Calling of a Parliament* for securing the Nation against the evil Practices of those wicked Counsellors: but this could not be yet compassed, nor can it be easily brought about. For those Men apprehending, that a lawful Parliament being once assembled, they would be brought to an account for all their open Violations of Law, and for their Plots and Conspiracies against the Protestant Religion, and the Lives and Liberties of their Subjects, they have endeavoured, under the specious pretence of *Liberty of Conscience*, first to sow Divisions among Protestants, between those of the *Church of England* and the *Dissenters*: The Design being laid to engage Protestants, that are all equally concerned, to preserve themselves from Popish Oppression, into mutual Quarrellings, that so by these some Advantages might be given to them to bring about their Designs; and that both in the Election of Members of Parliament, and afterwards in the Parliament it self. For they see well, that if all Protestants could enter into a mutual good understanding one with another, and concur together in the preserving of their Religion, it would not be possible for them to compass their wicked Ends. They have also required all Persons in the several Counties of *England*, that either were in any Employment, or were in any considerable Esteem, to declare before-hand, that they would concur in the Repeal of the *Test and Penal Laws*; and that they would give their Voices in the Elections to Parliament, only for such as would concur in it: Such as would not thus preingage themselves, were turned out of all Employments; and others who entered into those Engagements were put in their Places, many of them being Papists: And contrary to the Charters and Privileges of those Boroughs that have a Right to send Burgesses to Parliament, they have ordered such Regulations to be made as they thought fit and necessary, for assuring themselves of all the Members that are to be chosen by those Corporations; and by this means they hope to avoid that Punishment which they have deserved; tho it is apparent that all Acts made by Popish Magistrates are null and void of themselves: So that no Parliament can be lawful, for which the Elections and Returns are made by Popish Sheriffs and Mayors of Towns; and therefore as long as the Authority and Magistracy is in such hands, it is not possible to have any lawful Parliament. And tho according to the Constitution of the *English* Government, and immemorial Custom, all Elections of Parliament-men ought to be made with an entire Liberty, without any sort of Force, or the requiring the Electors to chuse such Persons as shall be named to them: and the Persons thus freely elected, ought to give their Opinions freely upon all Matters that are brought before them, having the Good of the Nation ever before their Eyes, and following in all things the Dictates of their Conscience; yet now the People of *England* cannot expect a Remedy from a *Free Parliament*, legally called and chosen: But they may perhaps see one called, in which

Calling a
Parlia-
ment neces-
sary.

Endeavour
to corrupt
the Electi-
ons.

all

Novem. all Elections will be carried by Fraud or Force, and which will be composed of such Persons of whom those Evil Counsellors hold themselves well assured, in which all things will be carried on according to their Direction and Interest, without any regard to the Good or Happiness of the Nation. Which may appear evidently from this, that the same Persons tried the Members of the last Parliament, to gain them to consent to the Repeal of the *Test and Penal Laws*, and procured that Parliament to be dissolved, when they found that they could not, neither by Promises nor Threatnings, prevail with the Members to comply with their wicked Designs.

Grounds
for suspect-
ing the
birth of a
Prince of
Wales.

19. But to crown all, there are great and violent Presumptions, inducing us to believe, that those Evil Counsellors, in order to the carrying on of their ill Designs, and to the gaining to themselves the more time for the effecting of them, for the encouraging of their Complices, and for the discouraging of all good Subjects, have published, That the Queen hath brought forth a Son; tho there have appeared, both during the Queen's pretended Bigness, and in the manner in which the Birth was managed, so many just and visible grounds of Suspicion, that not only we our selves, but all the good Subjects of those Kingdoms do vehemently suspect, that the pretended Prince of *Wales* was not born by the Queen. And it is notoriously known to all the World, that many both doubted of the Queen's Bigness, and of the Birth of the Child; and yet there was not any one thing done to satisfy them, or to put an end to their Doubts.

The Interest
of their
Highnesses
in Eng-
land.

20. And since our dearest and most entirely beloved Consort the Princess, and likewise we our Self, have so great an Interest in this Matter, and such a Right as all the World knows, to the Succession to the Crown: Since also the *English* did in the Year 1672. when the States General of the *United Provinces* were invaded in a most unjust War, use their utmost Endeavours to put an end to that War, and that in opposition to those who were then in the Government; and by their so doing, they run the hazard of losing both the Favour of the Court, and their Employments: And since the *English* Nation has ever testified a most particular Affection and Esteem, both to our dearest Consort the Princess, and to our Self, We cannot excuse our selves from espousing their Interests in a Matter of such high Consequence; and from contributing all that lies in us, for maintaining both of the *Protestant Religion*, and of the Laws and Liberties of those Kingdoms, and for the securing to them the continual enjoyment of all their just Rights. To the doing of which, We are most earnestly solicited by a great many Lords, both Spiritual and Temporal, and by many Gentlemen and other Subjects of all Ranks.

Resolution
to come in-
to England.

Intention
of it.

21. Therefore it is that We have thought fit to go over to *England*, and to carry over with Us a Force sufficient, by the Blessing of God, to defend us from the Violence of those Evil Counsellors. And We being desirous that our Intentions in this may be rightly understood, have for this end prepared this Declaration, in which, as we have hitherto given a true Account of the Reasons inducing us to it; so we now think fit to declare, That this our Expedition is intended for no other design, but to have a Free and Lawful Parliament assembled, as soon as is possible: And that in order to this, all the late Charters by which the Elections of Burgesses are limited contrary to the antient Custom, shall be considered as null and of no force: And likewise all Magistrates who have been unjustly turned out, shall forthwith resume their former Employments, as well as all the Boroughs of *England* shall return again to their antient Prescriptions and Charters: And more particularly, that the antient Charter of the great and famous City of *London*, shall again be in force: And that the Writs for the Members of Parliament shall be addressed to the proper Officers according to Law and Custom. That also none be suffered to chuse, or to be chosen Members of Parliament, but such as are qualified by Law: And that the Members of Parliament being thus lawfully chosen, they shall meet and sit in full Freedom; that so the two Houses may concur in the preparing of such Laws, as they upon full and free Debate shall judge necessary and convenient, both for the confirming and executing the Law concerning the *Test*, and such other Laws as are necessary for the security and maintenance of the *Protestant Religion*; as likewise for making such Laws as may establish a good Agreement between the *Church of England* and all *Protestant Dissenters*; as also for the covering and securing of all such who will live peaceably under the Government, as becomes good Subjects, from all Persecution upon the account of their Religion, even Papists themselves not excepted; and for the doing of all other things, which the two Houses of Parliament shall find necessary for the Peace, Honour

nour and Safety of the Nation, so that there may be no more danger of the Nation's falling at any time hereafter under *Arbitrary Government*. To this Parliament we will also refer the Enquiry into the Birth of the pretended Prince of Wales, and of all things relating to it, and to the Right of Succession. 1688.

22. And We, for our part, will concur in every thing that may procure the Peace and Happiness of the Nation, which a Free and Lawful Parliament shall determine; since We have nothing before our Eyes in this our Undertaking, but the preservation of the *Protestant Religion*, the covering of all Men from Persecution for their Consciences, and the securing to the whole Nation the free enjoyment of all their Laws, Rights and Liberties, under a just and legal Government. *To concur with a Free Parliament.*

23. This is the Design that we have proposed to our selves, in appearing upon this occasion in Arms: In the conduct of which We will keep the Forces under our Command, under all the strictness of Martial Discipline; and take a special care, that the People of the Countries through which we must march, shall not suffer by their means; and as soon as the State of the Nation will admit of it, We promise that we will send back all those Foreign Forces that We have brought along with us.

24. We do therefore hope that all People will judg rightly of us, and approve of these our Proceedings: But We chiefly rely on the Blessing of God for the Success of this our Undertaking, in which We place our whole and only Confidence.

25. We do in the last place invite and require all Persons whatsoever, all the Peers of the Realm both Spiritual and Temporal, all Lords Lieutenants, Deputy Lieutenants, and all Gentlemen, Citizens, and other Commons of all Ranks to come and assist us, in order to the executing of this our Design, against all such as shall endeavour to oppose us; that so we may prevent all those Miseries which must needs follow upon the Nation's being kept under Arbitrary Government and Slavery: And that all the Violences and Disorders which have overturned the whole Constitution of the *English Government*, may be fully redressed in a *Free and Legal Parliament*. *Concurrence of the People desired.*

26. And we do likewise resolve, that as soon as the Nations are brought to a state of Quiet, We will take care that a Parliament shall be called in *Scotland*, for restoring the antient Constitution of that Kingdom, and for bringing the Matters of Religion to such a Settlement, that the People may live easie and happy, and for putting an end to all the unjust Violences that have been in a course of so many Years committed there. *Scotland to be car'd for.*

We will also study to bring the Kingdom of *Ireland* to such a state, that the Settlement there may be religiously observed; and that the Protestant and *British* Interest there may be secured. And We will endeavour by all possible means, to procure such an Establishment in all the Three Kingdoms, that they may all live in a happy Union and Correspondence together; and that the Protestant Religion, and the Peace, Honour and Happiness of those Nations may be established upon lasting Foundations.

Given under our Hand and Seal, at our Court in the *Hague*, the Tenth day of October, in the Year of our Lord 1688.

WILLIAM HENRY, Prince of ORANGE.

By his Highness's special Command,

C. HUYGENS.

THUS you have an exact and full Account of the Prince of Orange's Declaration: And can you find one word of a Treaty with France, to extirpate all Protestants? Or can you imagine, that if they had the least Reason for such a Talk, they who aggravate every little thing, would let this Declaration pass without the least mentioning of what is so momentous and important? (a) And is there any thing more than a violent Presumption suggested about the Prince of Wales? And is the very Noise of such a Presumption reason enough to justify a real War? As for the other things urg'd,

(a) This Modesty of the Expression is a Justification of the Sincerity and Civility of the Declarer.

Novem. are they not redressable by a Parliament, and so far as it's possible without one already redressed? (b) 'Tis a Parliament then that is the main thing to be insisted on, which, tho chosen as the last was, would be too feeble an Argument to clear the present Invasion from the charge of being Injust and Unrighteous.

The great Men of this Kingdom ever thought a Parliament irregularly chosen, more eligible than either a War, or a rash enquiry into the manner of the choice. Did Queen Elizabeth's Parliament admit of a Word being spoken to bring Queen Mary's Parliament into doubt? Did they not look on it as most dangerous to do so? And altho by the Triennial Bill, the long Parliament in the late King's Reign was actually dissolved nine Months before it thought on the Repeal thereof; yet even after 'twas destroyed by it, the dissolved Parliament sat and repealed the dissolving Bill, and made the Conventicle-Act, the Test-Laws, repealed the Writ De Hæretico Comburendo, and passed the Habeas Corpus Bill into a Law. But was the Assembly that acted thus irregularly, ever call'd to an Account for it, or any of their Laws declared Void and Null? Or was it ever esteemed a good Reason for a War? And yet this is much more than hath been ever done by his present Majesty. (c) Besides, 'twas the late King that took away the Charters, and those who were entring on violent Courses for their Restauration, were proclaimed Traytors, and several executed for it, while all the Pulpits throughout England sounded of the Horridness, Blackness, Vileness, Devilishness of that Conspiracy; and is what was Black and Horrid then, become Noble, Great, Generous and Glorious now?

Thus much was also a part of the late Duke of Monmouth's Declaration, and yet a Parliament chosen by the garbled Corporations proclaim'd him a Traytor, and Attainted him: But doth the Blood of Monmouth, as well as of the forementioned Conspirators, and of all those in the West, lie on the Judges, Juries, Nobility and other Gentry of the Church of England (d), that had a hand in condemning such as by violent Methods would have restor'd the Charters? If these things could not vindicate the Presbyterian Plotters in the late King's Reign, or Monmouth's Rebellion, it cannot excuse the present Undertaking; for this doth infinitely exceed those and the Civil War too, for neither of them brought in a Foreign Power upon us as now is done.

But it must be observed, that how great soever our Grievances have been, yet now all that (e) Relief that can reasonably be desired, is granted us. The Ecclesiastical Commission actually broken up, the Bishop of London, the Master and Fellows of Magdalen College, and the antient Charters of Cities and Boroughs actually restored, all things on the antient Bottom, for the calling a Free Parliament, which his Majesty would have done before this time, had not the Prince of Orange hindred him: and as soon as the Prince of Orange departs, the King will call one; whereby all the Prince's Pretensions are taken away, and nothing more remains for him to do, but to return home, or contend for the Crown.

Yet the Prince would have us believe, that tho he is not satisfied in this, yet he intends no such thing as the Crown, or a Conquest of it, as appears by his Highness's Additional Declaration.

His Highness's Additional Declaration.

After We had prepared and printed this our Declaration, We have understood, that the Subverters of the Religion and Laws of those Kingdoms, hearing of our Preparations to assist the People against them, have begun to retract some of the Arbitrary and Despotick Powers that they had assumed, and to evacuate some of their injust Judgments and Decrees. The sense of their Guilt, and the distrust of their Force, have induced them to offer to the City of London some

(b) Nothing but a Free Parliament could re-establish our shattered Privileges and Liberties, and therefore it was so stiffly denied.

(c) True, the Charters were taken away to secure the Succession and Monarchy then; but now to ruin the English Liberty, and Protestant Religion.

(d) Their Loyalty, or rather Credulity, had been too notoriously abus'd, to be now again imposed on by this Argument: So it fell on the Offerer, and raised a just Indignation, instead of

Submission to a second Cheat.

(e) The Redresses granted had no certainty, because the Dispensing Power was still defended, the Bishop of London's Sentence remitted, but not declared Illegal; the Charters were restored, but still subject to new *Quo Warranto's*. And as for the promised Parliament, tho it was after granted; yet so dreadful it was, that the abandoning the Throne was more eligible than the fight of that Assembly. So all this Cant produced no good effect on the exasperated Minds of Men.

see m-

seeming Relief from their great Oppressions; hoping thereby to quiet the People, and to divert them from demanding a Re-establishment of their Religion and Laws under the shelter of our Arms: They do also give out, That we do intend to conquer and enslave the Nation; and therefore it is that we have thought fit to add a few words to our Declaration.

We are confident, that no Persons can have such hard thoughts of us, as to imagine that we have any other Design in this Undertaking, than to procure a Settlement of the Religion, and of the Liberties and Properties of the Subjects upon so sure a Foundation, that there may be no danger of the Nation's relapsing into the like Miseries at any time hereafter. And as the Forces that we have brought along with us, are utterly disproportioned to that wicked Design of conquering the Nation, if we were capable of intending it; so the great numbers of the principal Nobility and Gentry, that are Men of eminent Quality and Estates, and Persons of known Integrity and Zeal both for the Religion and Government of England, many of them being also distinguished by their constant Fidelity to the Crown, who do both accompany us in this Expedition, and have earnestly solicited us to it, will cover us from all such malicious Insinuations: For it is not to be imagined, that either those who have invited us, or those that are already come to assist us, can join in a wicked attempt of Conquest, to make void their own lawful Titles to their Honours, Estates and Interests. We are also confident, that all Men see how little weight there is to be laid on all Promises and Engagements that can be now made; since there has been so little regard had in time past to the most solemn Promises. And as that imperfect Redress that is now offered, is a plain Confession of those Violations of the Government that we have set forth; so the defectiveness of it is no less apparent: For they lay down nothing which they may not take up at pleasure; and they reserve entire, and not so much as mentioned, their Claims and Pretences to an arbitrary and despotick Power; which has been the Root of all their Oppression, and of the total Subversion of the Government. And it is plain, that there can be no Redress, no Remedy offered, but in Parliament; by a Declaration of the Rights of the Subjects that have been invaded, and not by any pretended Acts of Grace, to which the Extremity of their Affairs has driven them. Therefore it is that we have thought fit to declare, That we will refer all to a Free Assembly of the Nation, in a lawful Parliament.

Further Declaration of the Prince's Intentions.

Given under our Hand and Seal, at our Court in the Hague, the Twenty fourth day of October, in the Year of our Lord, 1688.

WILLIAM HENRY, Prince of ORANGE.

By his Highness's special Command,

C. HUYGENS.

THIS Addition doth very fully unfold the Design, the Prince will abide among us with a Foreign Power, and make the choice of a Parliament impracticable, and therefore the Call of one a weak and foolish thing; and yet oblige us to distrust every Promise the King makes us, lessening what is done, and insinuating that all things shall be soon undone. And why all these Insinuations, but to help us to unravel the whole Intrigue; which, if it be not for the Crown, must be thus: The Dutch knowing how the Prince hath ravished from them their Liberties and Privileges, and what danger they are in of being utterly undone, if Liberty of Conscience be settled among us in England, precipitate the Prince on this hazardous Undertaking, not doubting but they shall be either delivered from the Prince's Exercise of a despotick Power over them, or spoil our Liberty, to the Continuance and Advance of their own Trade; which may be the reason why in the entrance into the Declaration, what relates to Religion is so worded as to gain the Bishops over to them, the more easily to effect their Design; for says the Declaration, The Alteration of Religion is endeavoured, and that a Religion which is contrary to Law, is endeavoured to be introduced: It is not said, that the Popish Religion, but a Religion contrary to the Law; and it's well known, that the Laws are against the Religion of the Dissenters, and the Prince's endeavour shall be to preserve and maintain, above all, the Religion and Worship of God that is established among us; which cannot be understood of the Worship the Dissenters use, but of the Hierarchical Way, that is as contrary to the Prince's own Religion, as 'tis to that of the Dissenters in England.

Novem. And to perswade the Church-men to close with him, he declares, That he was most earnestly solicited to come over by the Lords Spiritual, not doubting, but that if the Belief thereof prevail among the Mobile, they'll be all of an Opinion, that the Prince's Grounds are most just and reasonable; so that though it cannot be made out by any thing particularly known, yet this General carrying a thousand unheard-of Arguments in its Bowels cannot fail of success.

How the
Bishops
were used
on this
score, is set
down in
its proper
Place.

But what if this prove not true? May we afterwards venture to believe his Highness in any thing, which under a violent Temptation he may be, as now, moved to declare? The Prince insists on it, That many of the Lords Spiritual did most earnestly sollicite him to invade us; and yet the Lords Spiritual do not only declare, That they look on this Invasion to be sinful, but that they never solicited his coming: And it must be acknowledged, That they could do no such thing without acting most contrary to their avowed Principles, and contrary to most solemn Oaths and Declarations; and Men should take heed, how they receive this report against the Right Reverend Bishops; the Design in which they are said to embark being founded on that very Principle, in pursuance of which the Head of Charles the Blessed Martyr was brought to the Block; and embark they cannot, but by joyning with a Foreign Army; the chief part of which is made up of those, who though they would willingly enough ensnare our Bishops, cannot be reasonably supposed to be true in the Promises they make about supporting their Hierarchical Grandeur: the utmost they must expect in the long run can be no more than a turning their Lands into Money, that, to the end their dependance on the Government may be the more effectually secured, instead of their present Lands, Leases, &c. they may have a yearly Salary answerable to their worth and desert; which as 'twill be uncertain, so it cannot be hoped that its utmost height shall arise to the State and Degree of a Baron; for Baronies go with their Lands. By this you may see, how unlikely any sort of Englishmen should by this Invasion gain any thing but Misery.

To this was subjoined a short Discourse, stiled, *Animadversions upon the Declaration of his Highness the Prince of Orange*. Which is about twelve Pages in Quarto, supposed to be written by Steward, but then attributed to Castlemain: but whoever was the Author of it, it is a spruce piece of Sophistry; and he was a Person who well knew what could be said for a bad Cause, and where it was not possible to make any defence, and there would insensibly glide by, as if he had not minded the difficulty.

Page 21. He has this Expression; Put it to the Nation, and all the Nation must declare, that every Man enjoys his Conscience, his Liberty, and his Property, even to the envy of their less happy Neighbours; and that there has been no proceeding against a single Man, but for his single Misdemeanor; and this is not Arbitrary, but legal Power. And then to asperse his Majesty with overturning all Laws, under the Name of Evil Counsellors! Why, Sir, let his Counsellors be never so bad, they are worse, whose Service his Highness has used in penning his Declaration. By this Sample the Reader may judge of that whole Paper.

First, He useth the utmost Assurance to out-face the World as to the Matter of Fact. Secondly, Pretends Redress. Thirdly, Promiseth a Parliament, when it may be denied or over-aw'd. Fourthly, Makes all the Prince's Assistants Traytors, and perjur'd. And Lastly, Because the King was not accountable to his own Subjects, concludes, that neither was he so to the Prince, tho a Sovereign Prince. So he was to be revered like a God, and no body (not a Neighbour interested Prince) was to presume to say to him, What dost thou? To that height of stupidity was their Flattery then arrived, but soon after it expired!

This is the best Abstract I can give of that Defence, which is too long to be entirely inserted in this Work, though it were to be wished a larger might in due time be published, with all the material Papers at large. This Paper was afterwards answered; but things then had so rapid a Motion, that the Reply coming too late, was scarce read or regarded, the Prince being then invited to London by the Peers, by the *Guild-hall Declaration*.

Though there was not all that Men had fondly expected in this Declaration, yet here was enough to satisfy any rational Man, that the expelling this Prince and his Army before our Religion, Liberties, Properties and Government were effectually settled in Parliament, and those who had so outrageously attempted the ruin of them were call'd to an account, would certainly end in the ruin of them; and was a kind of cutting up our Laws and Religion with our Swords. This and nothing else was the cause that wherever the Prince's Declaration was read, it conquered all that saw or heard it; and it was to no purpose to excite Men to fight against

against their own Interest, and to destroy what was more dear to them than their Lives. 1688.

At the same time, an Extract of the States General their Resolution, *Thursday* the Twenty eighth of *October*, 1688. was also printed privately in *London*; wherein, among other Reasons why they had intrusted the Prince of *Orange* with this Fleet and Army, is this which follows:

THE King of *France* hath upon several occasions shewed himself dissatisfied with this State; which gave cause to fear and apprehend, in case the King of *Great Britain* should happen to compass within his Kingdom, and obtain an absolute Power over his People, that then both Kings, out of Interest of State, and Hatred and Zeal against the Protestant Religion, would endeavour to bring this State to Confusion, and, if possible, quite to subject it.

At the same time was printed also this Letter of the Prince of *Orange* to the Officers of the Army.

Gentlemen and Friends,

WE have given you so full and so true an Account of our Intentions in this Expedition, in our Declaration, that as we can add nothing to it, so we are sure you can desire nothing more of us. We are come to preserve your Religion, and to restore and establish your Liberties and Properties; and therefore we cannot suffer our selves to doubt, but that all true Englishmen will come and concur with us in our desire to secure these Nations from Popery and Slavery. You must all plainly see, that you are only made use of as Instruments to enslave the Nation, and ruin the Protestant Religion; and when that is done, you may judge what ye your selves ought to expect, both from the cashiering all the Protestant and *English* Officers and Soldiers in *Ireland*, and by the *Irish* Soldiers being brought over to be put in your Places; and of which you have seen so fresh an Instance, that we need not put you in mind of it. You know how many of your Fellow-Officers have been used, for their standing firm to the Protestant Religion, and to the Laws of *England*; and you cannot flatter your selves so far as to expect to be better used, if those who have broke their Word so often, should by your means be brought out of those straits to which they are at present reduced. We hope likewise that you will not suffer your selves to be abused by a false Notion of Honour, but that you will in the first place consider, what you owe to Almighty God and your Religion, to your Country, to your Selves, and to your Posterity, which you, as Men of Honour, ought to prefer to all private Considerations and Engagements whatsoever. We do therefore expect that you will consider the Honour that is now set before you, of being the Instruments of serving your Country, and securing your Religion; and we shall ever remember the Service you shall do Us upon this occasion, and will promise you, That we shall place such particular Marks of our Favour on every one of you, as your Behaviour at this time shall deserve of Us and the Nation; in which we shall make a great distinction of those that shall come seasonably to join their Arms with Ours; and you shall find Us to be your well-wishing and assured Friend,

W. H. P. O.

And another to all the Officers and Seamen in the *English* Fleet.

Gentlemen and Friends,

AS We have given to our Faithful and Well-beloved Admiral *Herbert* a full power, so we hope that you will give him an intire Credit, as to all he shall say to you on our part. We have published a Declaration, which contains the Reasons that moved Us to enter upon this Expedition, in which you will see We had no other design than the preservation of the Protestant Religion, and the re-establishment of the Laws and Liberties of the Kingdom of *England*, because it is evident that the Papists have resolved the intire ruin of our Religion in *Great Britain*, as it is effected already in *France*: And to you it is only to be imputed, if they are Masters.

We are persuaded, that you already perceive that you are made use of only as an Instrument for the bringing your selves and your Country under the yoke of the Papacy, and into Slavery, by the means of the *Irish*, and other Foreigners who are prepared to finish your Destruction. And therefore we hope God will inspire you with more salutary thoughts for the facilitating your Deliverance, and

Novem. and for the delivering you from all your Miseries, with your Country and Religion.
 And this is in all appearance impossible, without your joining with us, and
 assisting us who seek nothing but your Deliverance. And we also assure you,
 That we will never forget the Services which you shall do us on this occasion;
 and we promise to give every one particular marks of our favour, who shall de-
 serve it of Us and the Nation. We are sincerely your very affectionate Friend,
 W. H. P. O.

These Letters were spread under-hand over the whole Kingdom, and read by all sorts of Men; and the reason of them being undeniable, it had a great force on the Spirits of the Soldiery and Seamen: so that those who did not presently comply with them, yet resolved they would never strike one stroke in this Quarrel, till they had a Parliament to secure the Religion, Laws and Liberties of *England*; which the Court, on the other side, had resolved should not be granted till the Prince of *Orange*, with his Army, was expelled out of the Nation, and all those that had submitted to him (which were not many then) were reduced into their Power, to be treated as they thought fit.

In the mean time the Fleet came about from the *Buoy and Ore* to *Portsmouth*, under the Command of the Lord *Dartmouth*, where it arrived the Seventeenth of *November*; and on Monday the Nineteenth of *November* the King entred *Salisbury*, which was then the Head Quarters of the Army.

Lord Delamere declares for the Prince of Orange.

The Sixteenth of *November*, the Lord *Delamere* having received certain Intelligence of the landing of the Prince of *Orange* in the *West*, and seeing the *Irish* throng over in Arms, under pretence of assisting the King, but in reality to enslave us at home, as they had already reduced our Countrymen in *Ireland* to the lowest degree of Danger and Impudence, that they have at any time been in since the Conquest of *Ireland* in the Reign of *Henry II.* he thereupon assembled fifty Horsemen, and at the Head of them marched to *Manchester*; and the next day he went to *Boden Downs*, his Forces being then an hundred and fifty strong, declaring his design was to joyn with the Prince of *Orange*. This small Party of Men by degrees drew in all the North, and could never be suppress'd.

Before his Royal Highness the Prince of *Orange* left *Exeter*, there was an Association drawn up, and Signed by all the Lords and Gentlemen that were with him, the Date of which I cannot assign.

The Association for the P. of O.

WE whose Names are hereunto subscribed, who have now joined with the Prince of *Orange*, for the defence of the Protestant Religion, and for the maintaining the Antient Government, and the Laws and Liberties of *England, Scotland* and *Ireland*, do engage to Almighty God, to his Highness the Prince of *Orange*, and to one another, to stick firm to this Cause, in the defence of it, and never to depart from it, until our Religion, Laws and Liberties are so far secured to us in a Free Parliament, that we shall be no more in danger of falling under Popery and Slavery. And whereas we are engaged in this common Cause under the Protection of the Prince of *Orange*, by which in case his Person may be exposed to danger, and to the cursed attempts of Papists, and other bloody Men, We do therefore solemnly engage to God and one another, That if any such attempt be made upon him, we will pursue not only those who make it, but all their Adherents, and all that we find in Arms against us, with the utmost severity of a just Revenge, to their Ruin and Destruction. And that the execution of any such Attempt (which God of his infinite Mercy forbid) shall not divert us from prosecuting this Cause which we do now undertake, but that it shall engage us to carry it on with all the rigour that so barbarous a Practice shall deserve.

A Skirmish betwixt some of the Forces of both Sides,

November the Twentieth there happened a Skirmish at *Wincanton*, between a Detachment of seventy Horse and fifty Dragoons and Granadiers, commanded by one Colonel *Sarsfield*, and about thirty of the Prince of *Orange*'s Men, commanded by one *Cambel*: where notwithstanding the great inequality of the Numbers, the latter fought with that desperate bravery, that it struck a terror into the Minds of the Army, who were otherwise sufficiently averse from fighting; and besides, the Action was every where magnified so much above the real truth, that it shew'd clearly how much Men wished the Prosperity of that Prince's Army.

This

This Lieutenant *Cambel*, and one Lieutenant *Echlin* belonging to *Mackay's* Regiment, were sent out to buy and gather Horses for the Carriages; and they had gotten some near *Wincanton*, and were then resolving to march back with them to the Army, when they were alarm'd with the approach of the Forces under Colonel *Sarsfield*: And if they had pursued that Design, they could not have been blamed, considering the inequality of their numbers, and that the Horses they had taken up might have been useful to them in their retreat: but they trusting to their Valour, resolved to fight the Enemy. To this end they drew out of the Town, and posted their Men behind the Hedges, in two small Enclosures, at the East end of *Wincanton*, on both sides of the Road, and *Cambel*, with five or six Men, kept the Road; and, upon the approach of the Enemy, he cried, *Stand, stand, Who are you for?* The other replying, *for King James*; *Cambel* said, *And I am for the Prince of Orange, Fire*, and shot the Officer dead; the rest of the Men thereupon fired also from the Hedges three times before the Horse could get in upon them, and then they retreated behind the next Hedg, and then stood again. The Men on the other side of the Road being better secured, kept their ground, and were never driven from their Post (as is said by the Author of the Exact Diary, pag. 58.) In the interim, the Inhabitants of *Wincanton* being much alarm'd, ran into the Fields to see what was doing; and a Miller's Man coming riding into the Town, cried to *Sarsfield*, *Away for your Lives, save your selves, the Enemies are at hand*; upon which *Sarsfield* and his Party fled, leaving more of their number slain, than they had engaged. There was one Coronet *Web*, who came with them, left wounded in the Field, who was taken care for by the Prince's Men, *Sarsfield* retiring in that disorder, that he took no care of his own Men, nor ever enquired into the truth of the story which frightened him away. There was a Serjeant of the Prince's Party who asked, and had Quarter given him, but was afterwards shot dead by *Sarsfield's* Men. Of the Prince's Men there were about eight or nine slain in all, and the rest went back with their Horses to the Army.

1688.

In the West.

Sarsfield's Party flies.

The Twenty second of *November*, the King at *Salisbury* put out a Proclamation of Pardon, which was regarded by no body.

‘ **F**Orasmuch as several of our Subjects have been seduced to take up Arms, and, contrary to the Laws of God and Man, to join themselves with Foreigners and Strangers in a most unnatural Invasion upon us, and this their Native Country, many of whom, we are perswaded, have been wrought upon by false Suggestions and Misrepresentations made by our Enemies: And we desiring (as far as is possible) to reduce our said Subjects to Duty and Obedience by Acts of Clemency, at least resolving to leave all such as shall persist in so wicked an Enterprize without Excuse, do therefore promise, grant and declare, and by this our Royal Proclamation publish our free and absolute Pardon to all our Subjects who have taken up Arms, and join'd with the Prince of *Orange* and his Adherents in the present Invasion of this our Kingdom, provided they quit and desert our said Enemies and within the space of twenty days from the date of this our Royal Proclamation, render themselves to some one of our Officers, Civil or Military, and do not again, after they have rendred themselves as aforesaid, return to our Enemies, or be any way aiding or assisting to them; and they who refuse or neglect to lay hold of this our Free and Gracious Offer, must never expect our Pardon hereafter, but will be wholly and justly excluded of and from all hopes thereof. And lastly, We do also promise and grant our Pardon and Protection to all such Foreigners as do or shall come over to us, whom we will either entertain in our Service, or otherwise grant them (if they shall desire it) freedom of passage, and liberty to return to the respective Countries from whence they came.

K. James proclaims Pardon.

The same day the Nobility, Gentry and Commonalty, then assembled at *Nottingham*, made this Declaration.

‘ **W**E the Nobility, Gentry and Commonalty of these Northern Counties, assembled at *Nottingham*, for the Defence of the Laws, Religion and Properties, according to the free-born Liberties and Privileges descended to Us from our Ancestors, as the undoubted Birth-right of the Subjects of this Kingdom of *England* (not doubting but the Infringers and Invaders of our Rights will represent us to the rest of the Nation, in the most malicious Dress they can

Declaration of the Assembly at Nottingham to assist the P. of O.

put

Novem.
Grievances
complain'd
of.

put upon us) do here unanimously think it our Duty to declare to the rest of our Protestant Fellow-Subjects the grounds of our present Undertaking. We are by innumerable Grievances made sensible, that the very Fundamentals of our Religion, Liberties and Properties, are about to be rooted out by our late Jesuitical Privy Council, as has been of late too apparent: First, by the King's dispensing with all the Established Laws at his pleasure. 2. By displacing all Officers out of all Offices of Trust and Advantage, and placing others in their room, that are known Papists, deservedly made incapable by the Established Laws of this Land. 3. By destroying the Charters of most Corporations in the Land. 4. By discouraging all Persons that are not Papists, and preferring such as turn to Popery. 5. By displacing all honest and conscientious Judges, unless they would, contrary to their Consciences, declare that to be Law, which was merely Arbitrary. 6. By branding all Men with the Name of Rebels, that but offered to justify the Laws in a legal course against the Arbitrary Proceedings of the King, or any of his corrupt Ministers. 7. By burdening the Nation with an Army, to maintain the Violation of the Rights of the Subjects; and by discountenancing the Established Religion. 8. By forbidding the Subjects the benefit of Petitioning, and construing them Libellers; so rendring the Laws a Nose of Wax, to serve their Arbitrary Ends. And many more such like, too long here to enumerate.

We being thus made sadly sensible of the Arbitrary and Tyrannical Government, that is by the influence of *Jesuitical* Councils coming upon us, do unanimously declare, That not being willing to deliver our * Posterity over to such a condition of Popery and Slavery, as the aforesaid Oppressions do inevitably threaten; we will, to the utmost of our power, oppose the same, by joining with the Prince of *Orange* (whom, we hope, God Almighty hath sent to rescue us from the Oppressions aforesaid) will use our utmost endeavours for the recovery of our almost ruin'd Laws, Liberties, and Religion; and herein we hope all good Protestant Subjects will with their Lives and Fortunes be assistant to us, and not be bugbear'd with the opprobrious terms of Rebels, by which they would fright us to become perfect Slaves to their Tyrannical Insolences and Usurpations: For we assure our selves, that no rational and unbiass'd Person will judg it Rebellion to defend our Laws and Religion, which all our Princes have sworn at their Coronation; which Oath, how well it hath been observed of late, we desire a Free Parliament may have the consideration of.

We own it Rebellion to resist a King that governs by Law; but he was always accounted a Tyrant that made his Will the Law, and to resist such a one, we justly esteem no Rebellion, but a necessary Defence: And in this consideration we doubt not of all honest Mens assistance, and humbly hope for and implore the Great God's Protection, that turneth the Hearts of his People as pleaseth him best; it having been observed, that People can never be of one mind without his Inspiration, which hath in all Ages confirmed that Observation, *Vox populi est vox Dei*.

Resisting a
Tyrant no
Rebellion.

The present restoring the Charters, and reversing the oppressing and unjust Judgment given on *Magdalen-College-Fellows*, is plain, are but to still the People, like Plums to children, by deceiving them for a while: But if they shall by this Stratagem be fooled, till this present Storm that threatens the Papists be past, as soon as they shall be resettled, the former Oppression will be put on with greater vigour; but we hope, in vain is the Net spread in the sight of the Birds: For, First, The Papists old Rule is, that Faith is not to be kept with Hereticks (as they term Protestants) tho the Popish Religion is the greatest Heresy. And, (2ly) Queen *Mary's* so ill observing her Promises to the *Suffolk* Men that help'd her to her Throne. And above all, (3ly) the Pope's dispensing with the Breach of Oaths, Treaties or Promises at his pleasure, when it makes for the Service of Holy Church, as they term it. These, we say, are such convincing Reasons to hinder us from giving credit to the aforesaid *Mockshews* of Redress, that we think our selves bound in Conscience to rest on no security that shall not be approved by a freely-elected Parliament; to whom, under God, we refer our Cause.

* These Gentlemen who now pretend to such extraordinary Loyalty, should do well to consider this.

Whilst the King was busied at *Salisbury*, the Popish Party seeing their Affairs grow every day more desperate and hopeless, began to employ all their Politicks to invent some Remedy for them, and then first formed the Design of the King's withdrawing; which the Lord *Dover* and Mr. *Brent* made no secret of, frequently saying, *The King would withdraw himself out of the Kingdom, above a Fortnight before he did.* Nor were these Persons the only two in this Secret, and of this Opinion: But a Letter was sent to the King, while he was here, which can be produced (saith my Author) in which he was told, it was the unanimous Advice of all the Catholics at *London*, That he should come back from thence, and withdraw himself out of the Kingdom, and leave it in confusion; assuring him, That within two Years or less it would be in such Confusion, that he might return and have his Ends of it. This divulging the Secret before-hand, did much abate the Wonder of it when it happened; and disposed the Peers to a more speedy Resolution of securing the Nation from the Confusion they designed and expected, and is a strong Proof the King withdrew voluntarily, and upon a Design.

1688.

K. James at Salisbury. The Letter to a Bishop, Pag. 14.

Advised to withdraw out of the Kingdom.

In the mean time the Nobility about the King having used all the Arguments they could invent to perswade him to call a Free Parliament, and finding him unmovably fixed in a contrary Resolution, and the Army in great discontent, disorder and fear, and the whole Nation just ready to take fire, (a) Prince *George* of *Denmark*, the Duke of *Grafton*, the Lord *Churchil*, and many others of the Protestant Nobility left him, and went over to the Prince of *Orange*, who was then at *Sherborn*. The Prince left this following Letter for the King.

Advised to call a Parliament.

Prince George's Letter to the King.

S I R,
WITH a Heart full of Grief am I forced to write what Prudence will not permit me to say to your Face: And may I e'er find Credit with your Majesty, and Protection from Heaven, as what I now do is free from Passion, Vanity or Design, with which Actions of this nature are too often accompanied. I am not ignorant of the frequent Mischiefs wrought in the World by factious Pretences of Religion; but were not Religion the most justifiable Cause, it would not be made the most specious Pretence. And your Majesty has always shewn too uninterested a sense of Religion, to doubt the just Effects of it in one whose Practices have, I hope, never given the World cause to censure his real Conviction of it; or his backwardness to perform what his Honour and Conscience prompt him to. How then can I longer disguise my just Concern for that Religion in which I have been so happily educated, which my Judgment thoroughly convinceth me to be the best, and for the Support of which I am so highly interested in my native Country? And is not *England* now by the most endearing Tie become so?

Whilst the restless Spirits of the Enemies of the REFORMED RELIGION, back'd by the cruel Zeal and prevailing Power of *France*, justly alarm and unite all the Protestant Princes of Christendom, and engage them in so vast an Expence for the Support of it: Can I act so degenerate and mean a part, as to deny my concurrence to such worthy Endeavours, for the disabusing of your Majesty by the re-inforcement of those Laws, and the re-establishment of that Government on which alone depends the well-being of your Majesty, and of the Protestant Religion in *Europe*? This, Sir, is that irresistible and only Cause that could come in competition with my Duty and Obligations to your Majesty, and be able to tear me from you; while the same affectionate desire of serving you continues in me. Could I secure your Person by the hazard of my Life, I should think it could not be better employed. And would to God these your distracted Kingdoms might yet receive that satisfactory compliance from your Majesty in all their justifiable Pretensions, as might upon the only sure Foundation, that of the Love and Interests of your Subjects, establish your Government, and as strongly unite the Hearts of all your Subjects to you, as is that of,

Sir, Your Majesty's most humble and most obedient Son and Servant.

The Lord *Churchil* left a Letter to the same purpose, which runs thus:

(a) It is said, Prince *George* came back with the King to *Andover*, and went away with the Duke of

Ormond on Sunday night, the 25th of November, from that place.

Novem.

Lord Churchill's, now
D. of Malborough's
Letter to
K. James.

S I R,

SINCE Men are seldom suspected of Sincerity when they act contrary to their Interests; and tho my dutiful Behaviour to your Majesty in the worst of Times (for which I acknowledg my poor Services much overpay'd) may not be sufficient to incline you to a charitable Interpretation of my Actions; yet I hope, the great advantage I enjoy under your Majesty, which I can never expect in any other change of Government, may reasonably convince your Majesty and the World, that I am acted by a higher Principle, when I offer that Violence to my Inclination and Interest, as to desert your Majesty at a time, when your Affairs seem to challenge the strictest Obedience from all your Subjects, much more from one who lies under the greatest personal Obligations imaginable to your Majesty. This, Sir, could proceed from nothing but the inviolable Dictates of my Conscience, and a necessary concern for my Religion (which no good Man can oppose) and with which I am instructed, nothing ought to come in competition: Heaven knows with what partiality my dutiful Opinion of your Majesty hath hitherto represented those unhappy Designs, which inconsiderate and self-interested Men have framed against your Majesty's true Interest and the Protestant Religion. But as I can no longer join with such, to give a Pretence by Conquest to bring them to effect; so I will always, with the hazard of my Life and Fortune (so much your Majesty's due) endeavour to preserve your Royal Person and Lawful Rights, with all the tender Concern and dutiful Respect, that becomes,

Sir, Your Majesty's most dutiful, and most obliged Subject and Servant.

Many great
Men leave
the King.

The going off of these great Men, struck the King himself with Terror and Affliction; and the Army, which was before in very much disorder, became thereby so full of Fear and Suspicion, that a false Alarm being made by Design or Accident, on Sunday the 25th of November, the King and the whole Army left Salisbury; the Army retreating to Reading, and the King to Andover; and on Monday the 26th of November he returned in the Evening to London. The Princess Ann of Denmark, his 2d Daughter, was gone privately the night before from Whitehall, with the Lady Churchill; and if she had not left a Letter too behind her, which shew'd the reason of her retiring, in all probability all the Popish Party about Whitehall had been cut in pieces by the King's own Guards, upon a surmise they had made away this beloved Princess: So that they were forced to print her Letter to the Queen, to secure themselves from Violence.

K. James
returns to
London.
Sir Edw.
Hales re-
mov'd.

The first thing the King did after his return to London, was to remove Sir Edward Hales from being Lieutenant of the Tower, and to put Sir Bevil Skelton a Protestant in his place. Sir Edward had angered the whole City to the utmost, by planting several Mortar-pieces on the Walls towards the City, which tho designed only to awe it, had enraged more than frightened them. So that his Majesty saw he was not safe at Whitehall, as long as Sir Edward was Master of the Tower.

The 28th day his Majesty ordered in a Privy-Council the Lord Chancellor to issue out Writs for the sitting of a Parliament at Westminster, the 15th day of January following: But it was now too late, and the Nation was in that Ferment, that it was not much regarded what the Court did or said.

The 29th of November Prince George came to the Prince of Orange, who was then at Sherborn-Castle.

The 30th day of November, the King to appease the Minds of the People, issued out this Proclamation.

Proclama-
tion about
calling a
Parlia-
ment.

WE have thought fit, as the best and most proper means to establish a lasting Peace in this our Kingdom, to call a Parliament, and have therefore ordered our Chancellor to cause Writs to be issued forth for summoning a Parliament to meet at Westminster, upon the 15th day of January next ensuing the Date of this our Royal Proclamation. And, that nothing may be wanting on our part towards the Freedom of Elections, as we have already restored all Cities, Towns Corporate, and Boroughs throughout our Kingdom, to their ancient Charters, Rights and Privileges; so We command and require all Persons whatsoever, that they presume not, by Menace or any other undue means, to influence Elections, or procure the Vote of any Elector. And We do also strictly require and command all Sheriffs, Mayors, Bayliffs, and other Officers, to whom

‘ whom the Execution or Return of any Writ, Summons, Warrant, or Precept, 1688.
‘ for Members to the ensuing Parliament, shall belong, that they cause such Writ,
‘ Summons, Warrant or Precept to be duly published and executed, and Returns
‘ thereupon fairly made, according to the true merits of such Elections.

‘ And for the Security of all Persons, both in their Elections and Service in
‘ Parliament, We do hereby publish and declare, That all our Subjects shall have
‘ free liberty to elect; and all our Peers, and such as shall be elected Members of
‘ our House of Commons, shall have free liberty and freedom to serve and sit in
‘ Parliament, notwithstanding they have taken Arms, or committed any Act of
‘ Hostility, or been any way aiding or assisting therein. And for the better assu-
‘ rance hereof, We have graciously directed a general Pardon to our Subjects, to
‘ be forthwith prepared to pass our great Seal.

‘ And for the reconciling all publick Breaches, and obliterating the very Me-
‘ mory of all past Miscarriages, We do hereby exhort and kindly admonish all our
‘ Subjects to dispose themselves to elect such Persons for their Representatives in
‘ Parliament, as may not be biaſſed by Prejudice or Paſſion, but qualified with
‘ Parts, Experience, and Prudence, proper for this Conjunction, and agreeable
‘ to the Ends and Purposes of this our gracious Proclamation.

The Account of this Resolution going to the Fleet, all the Officers and Admi- Decemb.
rals drew up this Address.

To the King's most excellent Majesty;

*The humble Address of George Lord Dartmouth, Admiral of your Majesty's Fleet for
the present Expedition, and the Commanders of your Majesty's Ships of War now
actually at the Spithead, in your Majesty's Service, under his Lordship's Command.*

Most dread Sovereign,

‘ **T**HE deep Sense we have had of the great Dangers your Majesty's Sacred
‘ Person has been in, and the great effusion of Christian Blood that threatned
‘ these your Majesty's Kingdoms, and in all probability would have been shed,
‘ unless God of his infinite Mercy had put it into your Majesty's Heart to call a
‘ Parliament, the only Means in our Opinions, under the Almighty, left to quiet
‘ the Minds of your People; We do give your Majesty our most humble and hear-
‘ ty thanks for your gracious Condescension, beseeching Almighty God to give
‘ your Majesty all imaginable Happiness and Prosperity, and to grant, that such
‘ Counsels and Resolutions may be promoted, as conduce to your Majesty's Ho-
‘ nour and Safety, and tend to the Peace and Settlement of this Realm, both in
‘ Church and State, according to the established Laws of the Kingdom.

Signed

On board the *Refo-*
lution at *Spithead*,
Decemb. 1. 1688.

Dartmouth,
Berkley,
Ro. Strickland.

And under them by 38 other Commanders.

In the Week following the pretended Prince of *Wales* was sent down to *Portf-*
mouth, with Orders to the Lord *Dartmouth* to send him under a good Convoy
with his Nurse into *France*. This he was said to have utterly refused; whereup-
on he was brought back to *London* again on Saturday Dec. 8. and the Queen re-
solved to go over with him her self; and not contented with this, extorted from
the King a Promise to follow her himself: Which was the very worst Counsel the
worst Enemy he had in the World could possibly have given him.

*The Queen
and pre-
tended Pr.
of Wales
retire into
France.*

But to return back, *Scotland* was by this time almost in as bad a condition as
England; and some of the Nobility and Gentry of *Scotland* were sent up with a
Petition for a Free Parliament: And the Popish Chappels at *York*, *Bristol*, *Gloce-*
ster, *Worcester*, *Shrewsbury*, *Stafford*, *Wolverhampton*, *Bromidgham*, *Cambridg*, and
St. Edmonds-Bury, were about this time demolished; and where-ever the Lords
in Arms came, the Papists were disarmed: And in *Norfolk*, the Duke of *Norfolk*
their Lord-Lieutenant, had a great appearance of the Gentry with him, where
he and they declared for a Free Parliament, and the protection of the Protestant
Religion. This meeting was at *Normich* the first of *December*; and after that the
same Declaration was renewed at *Yarmouth* and *Lin*, and the *Suffolk* Men approved

*Popish
Chappels
demolished
every
where.*

Decemb. of it, but wanted a Lord-Lieutenant to assemble and head them, in order to the shewing their concurrence with safety.

Bristol seiz'd, and other Places declare for the Pr. of Orange.

Bristol was seized by the Earl of *Shrewsbury* and Sir *John Guise*; the Lord *Love-lace* was delivered by the Gentry of *Gloucestershire*, out of the Castle of *Gloucester*, where till then he had been imprisoned. The Lords *Molineux* and *Aston* in the mean time seized *Chester* for the King, being R. C's, and *Berwick* stood firm to him too; but *Newcastle* received the Lord *Lumly*, and declared for a Free Parliament and the Protestant Religion: *York* was in the hands of the associated Lords; and the Garison of *Hull* seized the Lord *Langdale* their Governor, a Papist, and the Lord *Montgomery*, and disarmed some Popish Forces newly sent thither, and then declared for a Free Parliament and the Protestant Religion: And *Plimouth* had long before submitted to the Prince of *Orange*; and the Army at *Reading*, upon another false Alarm, on Saturday the 8th of *December*, retired in great haste to *Twyford-bridg*; and endeavouring to regain their Post, on Sunday the 9th of *December*, a Party of the Prince's Men, who were sent for by the Inhabitants of *Reading*, upon their threatening to plunder and fire the Town, attacked the *Irish* Dragoons, and slew fifty of them, the *Irish* making little defence, tho the Prince's Party were much fewer in number, because they believed the whole Army was at hand.

The Author of the *Exact Diary of the late Expedition*, &c. P. 69. informs us that the *Irish* had fortified *Maidenhead-bridg* in *Berkshire*, planting on the middle of the Bridg two great Guns, and several others in a Brick-house seated between the Bridg and the Town, and here they were resolved bravely to defend the Passage against the Prince's Men; but a parcel of Countrymen, getting each of them an old Tub about Midnight, beat the *Dutch* March at a certain equal distance each from other: The *Irish* frightened at the Noise ran quite away, and next morning no Man could tell what was become of them; and the Prince's Men found and took away the Cannon.

The Popish Party was become so contemptible in *London*, that on Thursday the 6th of *December*, there was an Hue and Cry after Father *Peters*, publicly cried and sold in the Streets of *London*. But this was not the worst neither; for about the same time came forth this following Declaration, in the Name of the Prince of *Orange*.

By his Highness William Henry, Prince of Orange, A Third Declaration.

Pr. of O's 3d Declaration.

WE have in the course of our whole Life, more particularly by the apparent Hazards both by Sea and Land, to which we have so lately exposed our Person, given to the whole World so high and undoubted Proofs of our fervent Zeal for the Protestant Religion, that we are fully confident no true *English* Man and good Protestant can entertain the least suspicion of our firm Resolution, rather to spend our dearest Blood and perish in the Attempt, than not to carry on the blessed and glorious Design, which by the favour of Heaven we have so successfully begun, to rescue *England*, *Scotland* and *Ireland* from *Slavery* and *Popery*, and in a Free Parliament to establish the Religion, the Laws and the Liberties of these Kingdoms on such a sure and lasting Foundation, that it shall not be in the Power of any Prince for the future to introduce *Popery* and *Tyranny*.

Towards the more easie compassing this great Design, We have not been hitherto deceived in the just Expectation we had of the concurrence of the Nobility, Gentry, and People of *England* with Us, for the Security of their Religion, and the Restitution of the Laws, and the Re-establishment of their Liberties and Properties: Great numbers of all Ranks and Qualities having joined themselves to Us; and others at great distances from us, have taken up Arms and declared for Us. And which we cannot but particularly mention, in that Army which was raised to be the Instrument of *Slavery* and *Popery*, many (by the special Providence of God) both Officers and common Soldiers have been touched with such a feeling Sense of Religion, and Honour, and of true Affection to their native Country, that they have already deserted the illegal Service they were engaged in, and have come over to Us, and have given us full assurance from the rest of the Army, That they will certainly follow this Example, as soon as with our Army we shall approach near enough to receive them without hazard of being prevented and betrayed. To which end, and that we may

the

the sooner execute this just and necessary Design we are engag'd in for the publick Safety and Deliverance of these Nations, we are resolv'd with all possible diligence to advance forward, that a Free Parliament may be forthwith call'd, and such Preliminaries adjusted with the King, and all things first settl'd upon such a foot according to Law, as may give us and the whole Nation just reason to believe the King is dispos'd to make such necessary Condescension on his part, as will give entire Satisfaction and Security to all, and make both King and People once more happy.

1688.
His Inten-
tions to call
a Free Par-
liament.

And that we may effect all this in the way most agreeable to our desires, if it be possible, without the effusion of any Blood, except of those execrable Criminals who have justly forfeited their Lives, for betraying the Religion and subverting the Laws of their native Country, We do think fit to declare, that as we will offer no violence to any but in our own necessary defence, so we will not suffer any injury to be done to the Person even of any Papist, provided he be found in such place and condition and circumstances as the Laws require. So we are resolv'd and do declare, That all Papists who shall be found in open Arms, or with Arms in their Houses, or about their Persons, or in any Office or Employment Civil or Military, upon any pretence whatsoever, contrary to the known Laws of the Land, shall be treated by Us and our Forces not as Soldiers and Gentlemen, but as Robbers, Free-booters, and Banditti; they shall be incapable of Quarter, and entirely deliver'd up to the discretion of our Soldiers. And we do further declare, That all Persons who shall be found any ways aiding and assisting to them, or shall march under their Command, or shall join with or submit to them in the discharge or execution of their illegal Commissions or Authority, shall be look'd upon as Partakers of their Crimes, Enemies to the Laws and to their Country.

Papists
found in
Arms
threaten'd.

And whereas we are certainly inform'd, that great numbers of arm'd Papists have of late resorted to London and Westminster and Parts adjacent, where they remain, as we have reason to suspect, not so much for their own Security, as out of a wicked and barbarous Design to make some desperate Attempts upon the said Cities and the Inhabitants by Fire or a sudden Massacre, or both, or else to be the more ready to join themselves to a Body of French Troops, design'd, if it be possible, to land in England, procur'd of the French King by the Interest and Power of the Jesuits, in pursuance of the Engagements which, at the Instigation of that pestilent Society, his Most Christian Majesty, with one of his neighbouring Princes of the same Communion, has enter'd into, for the utter extirpation of the Protestant Religion out of Europe. Tho we hope we have taken such effectual care to prevent the one and secure the other, that by God's assistance we cannot doubt but we shall defeat all their wicked Enterprizes and Designs.

We cannot however forbear, out of our great and tender concern we have to preserve the People of England, and particularly those great and populous Cities, from the cruel Rage and bloody Revenge of the Papists, to require and expect from all the Lord Lieutenants, and Justices of the Peace, Lord Mayors, Mayors, Sheriffs, and other Magistrates and Officers Civil and Military of all Counties, Cities and Towns of England, especially of the County of Middlesex, and Cities of London and Westminster, and Parts adjacent, that they do immediately disarm and secure, as by Law they may and ought, within their respective Counties, Cities and Jurisdictions, all Papists whatsoever, as Persons at all times, but now especially, most dangerous to the Peace and Safety of the Government, that so not only all power of doing mischief may be taken from them, but that the Laws, which are the greatest and best Security, may resume their Force, and be strictly executed.

London
and West-
minster
order'd to
disarm all
Papists.

And we do hereby likewise declare, That we will protect and defend all those who shall not be afraid to do their Duty in obedience to these Laws. And that for those Magistrates and others, of what condition soever they be, who shall refuse to assist Us, and in obedience to the Laws to execute vigorously what we have required of them, and suffer themselves at this juncture to be cajoled or terrified out of their Duty, We will esteem them the most Criminal and Infamous of all men, Betrayers of their Religion, the Laws, and their Native Country, and shall not fail to treat them accordingly; resolving to expect and require at their hands the Life of every single Protestant that shall

Decemb. ' shall perish, and every House that shall be burnt or destroyed by Treachery
 and Cowardize.

Given under our Hand and Seal, at our Head Quarters at *Sherborn-Castle*, the
 Twenty eighth of *November*, 1688.

WILLIAM HENRY, Prince of ORANGE.

By his Highness's special Command,

C. HUYGENS.

The good
 effect of this
 supposed De-
 claration of
 the P. of O.

This was the boldest Attempt that ever was made by a private Person; for it is certain the Prince knew nothing of this Declaration, and disown'd it so soon as he heard of it: but yet it was printed in *London*, and a quantity of them were sent in a Penny-Post Letter to the Lord Mayor of *London*, who forthwith carried them to the King at *Whitehall*; and it is thought this sham Paper contributed very much to the fixing and hastening his Resolution of leaving the Nation. However there was no enquiry made after the Author or Printer of it that I could take notice of.

Pope's
 Nuncio
 makes his
 escape.

On Sunday the Ninth of *December* it is said Count *Dada*, the Pope's Nuncio, and many others departed from *Whitehall*, and the next Morning about three or four of the Clock, the Queen, the Child and (as was said) Father *Peters* crossed the Water to *Lambeth* in three Coaches each of six horses, and with a strong Guard went to *Greenwich* and so to *Gravesend*, where they embarked on a Yacht for *France*: And it is supposed she carried the Great Seal of *England* with her, it having never appear'd after this (a).

Before this, the Marquiss of *Hallifax*, the Earl of *Nottingham*, and the Lord *Godolphin*, had been sent by the King and Council to treat with the Prince of *Orange*, and to adjust the Preliminaries in order to the holding of a Parliament, who the eighth of *December* sent these Proposals to him.

S I R,

The King
 sends De-
 puties to
 treat with
 the P. of O.
 and their
 Proposals.

THE King commanded us to acquaint you, That he observeth all the differences and causes of Complaint alledged by your Highness, seem to be referred to a Free Parliament.

His Majesty, as he hath already declared, was resolved before this to call one, but thought that in the present state of Affairs it was advisable to defer it till things were more composed; yet seeing that his People still continue to desire it, he hath put forth his Proclamation in order to it, and hath issued forth his Writs for the Calling of it.

☞

And to prevent any cause of Interruption in it, he will consent to every thing that can be reasonably required for the Security of all those that come to it.

His Majesty hath therefore sent us to attend your Highness, for the adjusting of all Matters that shall be agreed to be necessary to the Freedom of Elections, and the Security of Sitting, and is ready to enter immediately into a Treaty in order to it.

His Majesty proposeth, that in the mean time the respective Armies may be retained within such Limits, and at such distance from *London*, as may prevent the Apprehensions that the Parliament may be in any kind disturbed, being desirous that the Meeting may be no longer delay'd, than it must be by the usual and necessary Forms.

Hungerford, the 8th
 of December 1688.

Hallifax,
 Nottingham,
 Godolphin.

To this his Royal Highness the Prince of *Orange* return'd this Answer:

P. of O's
 Answer to
 them.

WE, with the Advice of the Lords and Gentlemen assembled with Us, have in Answer made these following Proposals.

1. That all Papists, and such Persons as are not qualified by Law, be disarmed,

(a) The 2d of *May* the Seal was found in the Bag, between *Lambeth* and *Fox-hall*, and presented bottom of the *Thames* by a Fisherman, in a Red to the King.

disbanded, and removed from all Employments Civil and Military.

1688.

II. That all Proclamations that reflect upon Us, or any that have come to Us or declar'd for Us, be recalled; and if any Persons for having assisted Us have been committed, that they be forthwith set at liberty.

III. That for the Security and Safety of the City of *London*, the Custody and Government of the Tower be immediately put into the hands of the said City.

IV. That if his Majesty should think fit to be in *London*, during the Sitting of the Parliament, that we may be there also with an equal number of our Guards; and if his Majesty shall be pleased to be in any place from *London*, whatever distance he thinks fit, that we may be the same distance, and that the respective Armies be from *London* forty Miles, and that no further Forces be brought into the Kingdom.

V. And that for the Security of the City of *London* and their Trade, *Tilbury* Fort be put into the hands of the City.

VI. That a sufficient part of the publick Revenue be assigned Us, for the Support and Maintenance of our Troops, until the Sitting of a Free Parliament.

VII. That to prevent the landing of the *French* or other foreign Troops, *Portsmouth* may be put into such hands, as by his Majesty and Us shall be agreed on.

Littlecot, December 9, 1688.

Tilbury-Fort was then garison'd by the *Irish*, and there were a great many of them and other Papists in *Portsmouth*.

This Answer was sent to his Majesty on Monday the tenth of *December* by an Express. When his Majesty received this Letter, he could not but give this just Character of the Prince's Proposals, viz. That they were fairer than he could or did expect; so that he had no reason then to be afraid of his Person, but might have continued with security in his Palace, and taken care of the Government, and called such a Parliament as both himself and the Prince desired, which might have quietly and effectually settled this Nation, and prevented all ill consequences to his Person or to his Affairs. Yet he resolved to leave the Nation, and ordered all those Writs for the sitting of the Parliament, that were not sent out, to be burnt, and a *Caveat* to be enter'd against the making use of those that were sent down: and at the same time he sent order to the Earl of *Feversham* to disband the Army and dismiss the Soldiers.

The Letter to a Bishop, pag. 14. K. James pleas'd with the P. of O's Answer.

The same Evening the King sent for the Lord Mayor of *London* and the Sheriffs to *Whitehall*, and having acquainted them with the departure of the Queen and Child, and his Intentions to stay with them, he laid a strict charge upon them to take care of the City, and to keep it in Peace: After which the Council was a long time in debate, and a Meeting was appointed the next morning: What was the Subject of their Consideration is not known.

The Letter to the Earl of *Feversham* was in this form.

Things being come to that Extremity, that I have been forc'd to send away the Queen and my Son the Prince of *Wales*, that they might not fall into the Enemies hands, which they must have done if they had staid; I am oblig'd to do the same thing, in hopes it will please God, out of his infinite Mercy to this unhappy Nation, to touch their Hearts again with true Loyalty and Honour. If I could have rely'd on all my Troops, I might not have been put to the Extremity I now am in, and would at least have had one blow for it. But tho I know there are many and brave Men among you, both Officers and Soldiers; yet you know, that both you and several of the General Officers and Soldiers and men of the Army told me, It was no ways advisable for me to venture my self at their head, or to think to fight the Prince of *Orange* with them.

K. James's Letter to the Earl of *Feversham*.

And now there remains only for me to thank you and all those, both Officers and Soldiers, who have stuck to me, and been truly Loyal. I hope you will still retain the same Fidelity to me; and tho I do not expect you should expose your selves, by resisting a foreign Army and a poison'd Nation, yet I hope your former Principles are so inrooted in you, that you will keep your selves free from Associations and such pernicious things. Time presseth, so that I can add no more.

James Rex.

The

Decemb. The Earl of *Feverſham*, preſently after the receipt of this Letter, diſbanded Four thouſand Men, which was all the Army he had then with him, and under his Command (a); after which he ſent this Letter to the Prince of *Orange*.

S I R,

‘ HAVING receiv’d this morning a Letter from his Maſteſty, with the unfortunate News of his Reſolution to go out of *England*, I thought my ſelf oblig’d, being at the head of his Army, and having receiv’d his Orders to make no oppoſition againſt any body, to let your Highneſs know it, with the Advice of the Officers here, ſo ſoon as was poſſible, to hinder the effuſion of Blood. I have order’d already, to that purpoſe, all the Troops that are under my Command, which ſhall be the laſt Order they ſhall receive from

Feverſham.

Meaſures taken to deſert and abdicate.

This was to all intents and purpoſes a clear and full Abdiſcation or Deſertion of the Army, and put them under an inevitable neceſſity of ſubmitting to the Prince of *Orange*, they having no body to lead or head them againſt him. And it is not conceivable how they could keep themſelves from entering into an *Aſſociation* or *Oath of Allegiance* to the Prince, now he was gone, without expoſing themſelves, by reſiſting a foreign Army and a poiſon’d Nation. For neither could the Nation long continue without a Prince, nor would any Perſon that ſucceeded in that Capacity have ever ſuffer’d them to live within his Government, without giving him ſecurity by Oath for their Submiſſion and Loyalty to him: So that the whole deſign of this Letter ſeems to be the ſowing a Diſiſion in the Nation; that at the ſame time he left us, we might not unite or ſettle our ſelves under the other, but by our Principles be divided, that ſo he might the more eaſily reduce us again into the ſtate we were in, when the Prince firſt deſign’d his Expedition againſt *England*.

This being done, about three a Clock in the morning, *December* the 11th, the King went down the River in a ſmall Boat towards *Graveſend*. The principal Officers of the Army about the Town thereupon met about ten of the Clock at *Whitehall*, and ſent an Expreſs to the Prince of *Orange*, to acquaint him with the departure of the King, and to aſſure him, that they would aſſiſt the Lord Mayor to keep the City quiet till his Highneſs came, and made the Soldiery to enter into his Service.

Much about the ſame time, the Lords Spiritual and Temporal about the Town came to *Guild-Hall*, and ſending for the Lord Mayor and Aldermen, made the following Declaration.

The Declaration of the Lords Spiritual and Temporal in and about the Cities of London and Weſtmiſter, Aſſembled at Guild-Hall the 11th of December, 1688.

Upon K. J. withdrawing himſelf,

‘ WE doubt not but the World believes, that in this great and dangerous Conjuncture we are heartily and zealouſly concern’d for the Proteſtant Religion, the Laws of the Land, and the Liberties and Properties of the Subject. And we did reaſonably hope, that the King having iſſued out his Proclamation and Writs for a Free Parliament, we might have reſted ſecure under the expectation of that Meeting: But his Maſteſty having withdrawn himſelf, and, as we apprehend, in order to his departure out of this Kingdom, by the pernicious Counſels of Perſons ill-affected to our Nation and Religion, we cannot, without being wanting to our Duty, be ſilent under thoſe Calamities, wherein the Popiſh Counſels, which ſo long prevail’d, have miſerably involv’d theſe Realms. We do therefore unanimouſly reſolve to apply our ſelves to his Highneſs the Prince of *Orange*, who with ſo great kindneſs to theſe Kingdoms, ſo vaſt expence, and ſo much hazard, hath undertaken, by endeavouring to procure

(a) An ingenious Gent. who made reflections on the defects of this Hiſtory (for which the Author is thankful) wiſheth an exact account were given here what were become of all the late King’s Forces, beſides theſe 4000, when and how they went

off; but there ſeems to have been all the care imaginable taken to conceal theſe things from us, and the Author is not able to do it without information from others.

‘ a Free Parliament, to rescue us (with as little effusion of Christian Blood as possible) from the imminent Dangers of Popery and Slavery. 1688.

‘ And we do hereby declare, That we will with our utmost Endeavours assist his Highness, in the obtaining such a Parliament with all speed, wherein our Laws, our Liberties and Properties may be secured, the Church of *England* in particular, with a due Liberty to Protestant Dissenters, and in general the Protestant Religion and Interest, over the whole world, may be supported and encouraged, to the Glory of GOD, the Happiness of the Established Government in these Kingdoms, and the Advantage of all Princes and States in *Christendom*, that may be herein concerned.

‘ In the mean time we will endeavour to preserve, as much as in us lies, the Peace and Security of these great and populous Cities of *London* and *Westminster*, and the parts adjacent, by taking care to disarm all Papists, and secure all Jesuits and Romish Priests, who are in or about the same.

‘ And if there be any thing more to be performed by Us, for promoting his Highness’s Generous Intentions for the Publick Good, we shall be ready to do it as occasion requires.

Signed —

W. Cant.

Ailesbury.

W. Asaph.

T. Jermyn.

T. Ebor.

Burlington.

F. Ely.

Vaughan Carbery.

Pembroke.

Suffex.

Tho. Roffen.

Culpeper.

Dorset.

Berkely.

Tho. Petriburg.

Crewe.

Mulgrave.

Rochester.

P. Wharton.

Osulston.

Thanet.

Newport.

North and Grey.

Carlisle.

Weymouth.

Chandois.

Craven.

P. Winchester.

Montague.

‘ Whereas his Majesty hath privately this Morning withdrawn himself, we the Lords Spiritual and Temporal, whose Names are hereunto subscribed, being assembled in *Guild-Hall* in *London*, having agreed upon and signed a Declaration of the Lords Spiritual and Temporal, in and about the Cities of *London* and *Westminster*, assembled at *Guild-Hall* the 11th of *December*, 1688. do desire the Right Honorable the Earl of *Pembroke*, the Right Honorable the Lord Viscount *Weymouth*, the Right Reverend Father in God the Lord Bishop of *Ely*, and the Right Honorable the Lord *Culpeper*, forthwith to attend His Highness the Prince of *Orange* with the said Declaration, and at the same time to acquaint His Highness with what we have further done at this Meeting. Dated at *Guild-Hall* the 11th of *December*, 1688. A Deputation to the P. of O.

The Lords, before they came down to the City, had appointed the Lord Mayor, Court of Aldermen, and the Common Council, to be assembled, to concert with them the means of preserving the City and Kingdom; and when the Peers had thus led the way, they presently resolved also on the following Address to his Highness the Prince of *Orange*.

May it please your Highness,

‘ We taking into consideration your Highness’s fervent Zeal for the Protestant Religion, manifested to the world in your many hazardous Enterprises, wherein it hath pleased Almighty God to bless you with miraculous Successes, do render our deepest thanks to the Divine Majesty for the same, and beg leave to present our most humble Thanks to your Highness, particularly for your appearing in Arms in this Kingdom, to carry on and perfect your glorious Designs to rescue *England*, *Scotland*, and *Ireland* from Slavery and Popery, and in a Free Parliament to establish the Religion, and the Laws and Liberties of these Kingdoms upon a sure and lasting Foundation. City’s Address to the P. of O.

‘ We have hitherto looked for some remedy for those Oppressions and imminent Dangers, which we, together with our Protestant Fellow Subjects, laboured under, from his Majesty’s Concessions and Concurrences with your Highness’s just and pious Purposes expressed in your Gracious Declaration.

‘ But herein finding our selves finally disappointed by his Majesty’s withdrawing himself, we presume to make your Highness our refuge; and do in the Name of this Capital City, implore your Highness’s Protection, and most humbly beseech

Decemb. *W*eech your Highness to repair to this City, where your Highness will be received with universal Joy and Satisfaction.

This Address being approved and signed, four Aldermen and eight Commoners were appointed to attend his Highness with it.

The same day the Lieutenancy of *London* signed this following Address to the Prince of *Orange*, at *Guild-Hall*, and sent it by Sir *Robert Clayton*, Sir *William Russel*, Sir *Basil Firebrace*, Knights; and *Charles Duncomb* Esquire.

May it please your Highness,

Address to
the P. of
O. from
the Lieute-
nancy.

*W*E can never sufficiently express the deep sense we have conceived, and shall ever retain in our Hearts, that your Highness has exposed your Person to so many Dangers by Sea and Land, for the preservation of the Protestant Religion, and the Laws and Liberties of this Kingdom, without which unparallel'd Undertaking we must probably have suffered all the Miseries that Popery and Slavery could have brought upon us.

We have been greatly concerned, that before this time we had not any seasonable opportunity to give your Highness and the World a real Testimony, That it has been our firm Resolution, to venture all that is dear to us, to attain those Glorious Ends which your Highness has proposed for restoring and settling these distracted Nations.

We therefore now unanimously present to your Highness our just and due acknowledgments for that happy Relief you have brought to us: and that we may not be wanting in this present Conjuncture, we have put our selves into such a posture, that (by the Blessing of God) we may be capable to prevent all ill Designs, and to preserve this City in Peace and Safety, till your Highness's happy Arrival.

We therefore humbly desire, that your Highness will please to repair to this City with what convenient speed you can, for the perfecting the Great Work which your Highness has so happily begun, to the general joy and satisfaction of us all.

After his Highness had certain Intelligence, that the King was gone back to *London*, he came forward by easie Journeys, and entered *Salisbury* on *Tuesday* the 4th of *December*. The 5th the Earl of *Oxford* came thither to him. The same day, the Lord *Herbert* of *Cherbury*, and Sir *Edw. Harley*, and most of the Gentry of *Worcestershire* and *Herefordshire*, met at *Worcester*, and declared for the Prince of *Orange*. *Ludlow* Castle was also taken in for him by the Lord *Herbert* and Sir *Walter Blunt*, and the Popish Sheriff of *Worcester* secured in it by that Peer. The 7th of *December* his Highness came on to *Hungerford*; the 8th the Lords sent by the King came thither to him, and had the Dispatch I have mentioned; and after Dinner, he went to *Lidcot*. The 14th the Commissioners of the Peers, Common-Council, and Lieutenancy of *London*, presented the three Addresses to the Prince at *Henly*. The 15th his Highness entered *Windsor* about Two of the Clock in the Afternoon.

K. James
stopt at Fe-
versham.

The King in his departure put himself aboard a small *Yacht* or *Smack*, commanded by one Captain *Sanders*, but was forced for shelter to take into *East Swale* (the Eastern part of the Isle of *Sheppy*) in order to the taking in Ballast; where the Inhabitants of *Feversham* in *Kent* being out to take up Jesuits and other suspected Persons, found this small Vessel, and seized it on *Wednesday* the 12th of *December*; there were then present with him Sir *Edward Hales* and Mr. *Labady*, and none of them being known at first, they were very ill treated by the Seamen, and brought up to *Feversham* as suspicious Persons. The King being come there, and by that time known, he lodg'd that night at the Mayor's House, and sent for the Earl of *Winchelsea*, the Lord Lieutenant of that County, to come to him.

The Lord *Feversham* having receiv'd a Letter from the King the 11th of *December*, disbanded four thousand men (which was all the Army was left) at *Uxbridg*, where their Head Quarters then were, as I have said. The same day the Dutch Officers taken in the Fly-boat, and till then imprisoned in *Newgate*, were discharg'd.

The 12th of *December*, the Lords Spiritual and Temporal sat in the Council-Chamber at *Whitehall*; and it was absolutely necessary they should, the noise of the King's withdrawing having put the Rabble of *London* into such a ferment as had scarce been seen. That night they demolish'd the Popish Convent and Chapel

pel at St. John's (which they had attempted before the King went away, and had hardly been prevented from destroying it, by the death of three or four Persons) the Convent and Chappel of Fryars in *Lincolns-Inn Fields*, and the Popish Chappels in *Lime-street* and *Bucklers-Berry*, and the Chappel at *Wildhouse*, which was the Residence of the *Spanish* Ambassador. Out of the Materials of these Buildings they made great Piles, and at night fir'd them instead of Bonfires; and the number that ran together was incredible, and very terrible not only to the Roman Catholicks, but to all considering men, who did reflect seriously on the nature of the Times and the rage of the People. The same day therefore the Lords put out an order for the discovery of the Goods taken from the *Spanish* Ambassador, promising a good Reward, and commanding all Books and Papers taken out of his Library to be brought to the Council-Chamber in *Whitehall*.

1688.
Bonfires
made of the
Spoils of
Popish
Chappels.

The same day the late Lord Chancellor *Jeffreys* was taken at *Wapping* in a disguise, and sent to the *Tower* first by the Lord Mayor, which after was confirm'd by the Peers and Privy Council.

Ld Chan-
cellor Jef-
freystaken.

The 13th an account being brought, that the King was taken at *Feversham*, several of his Servants went down to him; but I don't find the Peers or Council sat that day. During the King's being here, his frequent Expression to those Persons of Quality who tender'd him their Service, was, *The most acceptable Service you can do me, is to facilitate my departure, and procure means for my going beyond Sea.*

Advanta-
ges of the
Present Go-
vernment,
pag. 22.

The 14th the Privy Council and Peers met again, and made this Order.

WE the Peers of this Realm, assembled with some of the Lords of the Privy Council, do hereby require all *Irish* Officers and Soldiers to repair forthwith to the respective Bodies to which they do or did lately belong; and do hereby declare, That behaving themselves peaceably, they shall have Subsistence paid them, till they shall be otherwise provided for or employ'd. And the said Officers and Soldiers are to deliver up their Arms to some of the Officers of the Ordnance, who are to deposite the same in the Stores in the *Tower of London*. And we do require and command all Justices of the Peace, Constables, and other Officers whom it may concern, That they apprehend and seize all such Soldiers as shall not repair to their respective Bodies, and that they be dealt with as Vagabonds.

Order of
the Privy
Council,
&c. about
the Irish
Forces.

Given at the Council-Chamber at *Whitehall*, the 14th of *December*, 1688.

Tho. Ebor.
Hallifax,
Dorset,

Carlisle,
Craven,
Nottingham,

Rochester,
N. Duresme,
P. Winchester,

North and Grey,
J. Trevor,
J. Titus.

It was but time to put out this Order; for on Thursday morning the 13th of *December*, about three of the clock, there was a dreadful Alarm, That the *Irish* in a desperate rage were approaching the City, putting Men, Women and Children to the Sword as they came along; whereupon the Citizens all rose, placing Lights in their Windows from top to bottom, and guarded every man his own doors with his Musquet charg'd with Bullet; and all the Trainbands in the City were assembled, and there was nothing but shooting and beating of Drums all night. This Alarm spread it self the whole length and breadth of the Kingdom of *England*; and all that were able to bear Arms appear'd at their several places, vowing the defence of their Lives, Religion, Laws and Liberties, and resolving to destroy all the *Irish* and Papists in *England*, in case any injury were offer'd them; but then there were very few Papists slain in these Tumults and Frights, but their Houses were generally rifled, on pretence of searching for Arms and Ammunition.

Alarm a-
bout the I-
rish coming
to London.

The Lords after this sent the Lords *Feversham*, *Ailesbury*, *Yarmouth* and *Middleton*, most humbly to entreat the King to return to *Whitehall*; and order'd his Guards to go down to him, to see him safe on board any Ship he should chuse, if he persisted in his Resolution to go out of the Nation. With them went the Servants of his Household, to carry him Mony and Clothes, all he had of the former being taken from him by the Seamen, and his Clothes rent and torn in the searching of him before he was known, as he had in part signified in a Letter to the Lord *Feversham*. Now considering the whole Nation, in a manner, had submitted to the Prince of *Orange*, before the King was heard of, after he had withdrawn himself, it had perhaps been but reasonable to have suspended the inviting him back to *Whitehall*, till they had receiv'd his Consent, or at least ask'd it, or had call'd a greater Assembly of the Peers than that day met.

A Message
from the
Lords to K.
J. to return
to White-
hall.

Decemb. The 12th day, the four Lords sent by the Peers, with four Aldermen, and eight of the Common Council of *London*, parted to wait upon the Prince of *Orange* with the Declaration signed by the Body of the Peers the day before at *Guild-Hall*, and an Address from the Common Council.

P. of O. comes to Windsor. And the 14th of *December* they all met and deliver'd their Addresses to the Prince of *Orange* at *Henly*; and the next day the Prince came on and entred *Windsor*, erecting his Standard on that Noble Castle.

K. James comes to Rochester. From thence to White-hall. The 15th the King removed to *Rochester*, in order to his return to *London*, and some of his Troops of Guards went down thither to him: And the next day being *Sunday*, he returned about Five in the Evening to *Whitehall*, attended by one Troop of Granadiers, and three Troops of Life-Guard, a set of Boys following him through the City, and making some Huzza's, while the rest of the People silently looked on. His Highness the Prince of *Orange*, who was then at *Windsor*, had sent Monsieur *Zulestein* to the King, to desire him to continue at *Rochester*; but he missing him, the King came to *White-hall*, and from thence sent the Lord *Feversham* to the Prince to *Windsor*, to invite him to *St. James's*, with what number of Troops he should think fit to bring with him: he could now do no otherwise, his Army having been disbanded by his own Order, all the Forts in *England*, except *Portsmouth*, being in the Prince's hands; and *London*, and almost all the Peers having in his absence sent their Submission, and inviting him to come forthwith to Town, to take upon him the Care of the City.

P. of O. invited by K. J. to St. James's.

This Letter being by the Prince refer'd to the Peers that were then at *Windsor*, they concluded, that the shortness of the time could admit no better expedient, than that the King might be desired to remove to some place within a reasonable distance from *London*; and *Ham*, a House belonging to the Dutchess of *Lauderdale*, was pitched upon, and a Note or Paper to that purpose drawn up.

Message to K. J. to retire to Ham.

WE desire you the Lord Marquis of *Hallifax*, the Earl of *Shrewsbury*, and the Lord *Delamere*, to tell the King, That it is thought convenient, for the great quiet of the City, and the greater safety of his Person, that he do remove to *Ham*, where he shall be attended by his Guards, who will be ready to preserve him from any disturbance.

Given at *Windsor*, the seventeenth of *December*, 1688.

W. Prince de Orange.

Monsieur *Zulestein* followed the King to *London*, and there delivered his Letter, and the Sixteenth returned to *Windsor*. The Earl of *Feversham* went the same day with a Letter to the Prince, and was by him committed to the Castle of *Windsor*.

E. of Fe-verham confin'd.

The Discontented Party in the Nation are very much concern'd to know the true cause of the commitment of this Earl; but it having not yet been published, it can be known only by Conjecture: And as we are ignorant of the Reasons of many of the Actions of the last Reign, so we may well be contented not to know this for the present. However he was soon after set at liberty, at the request of the Queen Dowager. The Author of the *History of the Revolution of England*, in *French*, saith, The Earl of *Feversham* was committed, because he had disbanded the Army after he knew the King was gone, without Order, and without Disarming the *Irish*. The truth is, this caused great Disorders, which might easily have been foreseen, and as easily have been prevented, by keeping them together till they were regularly disposed of and paid. What Authority that Gentleman had for this, I know not.

The King, so soon as ever he came to *Whitehall*, issued out this following Order of Council.

At the Court at *Whitehall*, the Sixteenth day of *December*, 1688.

Present The King's most Excellent Majesty,

Duke *Hamilton*, Earl of *Berkley*, Ld Viscount *Preston*, Master of the Rolls,
Earl of *Craven*, Earl of *Middleton*, Lord *Godolphin*, Mr. *Titus*.

K. James's Proclamation to hinder Disorders.

HIS Majesty being given to understand, That divers Outrages and Disorders are committed in several Parts of the Kingdom, by burning, pulling down, and otherwise defacing Houses, and other Buildings, and rifling and plundering the same, to the great terrour of His Majesty's Subjects, and manifest Breach of the Peace; His Majesty in Council is pleased to direct and command all Lord-
Lieute-

Lieutenants, Deputy-Lieutenants, Justices of the Peace, Mayors, Constables, and all other Officers whom it may concern, to use their utmost endeavours for the preventing of such Outrages and Disorders for the future, and for the suppressing all riotous and tumultuous Meetings and Assemblies whatsoever.

1688.

William Bridgeman.

There having been sufficient care taken for this by the Council before, it was not consistent with his Interest thus to shew his Zeal for the *Popish Party* in the very first Act he did upon his Return, as if he had come back only to serve them.

During the time the King staid at *Whitehall*, it was crowded with *Irish* men, Priests, Jesuits, and *Roman* Catholicks, after the old wont; and one of the Priests sent an imperious Message to the Earl of *Mulgrave* the Lord Chamberlain, to furnish his Lodgings with new Furniture, for he meant to continue in them. And the King also discharged *Leiburn* a *Popish* Bishop out of *Newgate*, on Monday the 17th of *December*: So that all things were returning apparently into the old Channel, and we were to expect nothing but what we had already seen and felt; and some that wished well to the King, said, he was cunningly invited back to *Whitehall*, with a design to ruin him the more effectually, and without any pity from his Protestant Subjects.

Papists crowd about K. James at Whitehall.

The Peers at *Windsor* did not think it reasonable, hearing this, that the Prince of *Orange* should accept the King's Invitation, and venture his Person in the same place: for this they had another good Reason, the Duke of *Grafton* marching through the *Strand* on the 14th day, at the head of a Foot-Regiment of Guards, to take the Fort of *Tilbury* out of the hands of the *Irish*, by the Order of the Council, an *Irish* Trooper came riding up to him, and being beaten off by the Soldiers, drew a Pistol against him; for which he was shot dead upon the place. And it was not improbable there were more of the same temper.

Hereupon the Peers at *Windsor* resolved to send the Prince's Guards to take possession of the Posts about *Whitehall*, to prevent all possibility of a disturbance from Guards belonging to two several Masters; which, besides other ill Consequences, might have perhaps involved the King's own Person in the danger that might have arisen from any Dispute. These Guards got not to *London* before Ten at Night, being commanded by Count *Solmes*; and the Guards then on Duty not being willing to dislodge, it was Twelve at Night before the Lords could deliver the Paper they had brought from *Windsor*, of which they first sent this Account to Secretary *Middleton*.

The Pr. of O's Guards take possession of Whitehall.

My Lord,

There is a Message to be delivered to his Majesty from the Prince, which is of so great importance, that we who are charged with it, desire we may be immediately admitted; and therefore desire to know where we may find your Lordship, that you may introduce, My Lord,

Your Lordship's most humble Servants,

Hallifax,

Shrewsbury,

Delamere.

He accordingly presently introduced them, the King being by that time in Bed: Where they made an Apology for coming at so unseasonable a time; and delivering him the Paper, the King read it, and said he would comply with it. Upon which the Lords humbly desired he would remove so early as to be at *Ham* by Noon, to prevent meeting the Prince in his way to *London*, where he was to come the same day. His Majesty readily agreed to this too, and asked whether he might not appoint what Servants should attend him? to which the Lords reply'd, That it was left to him to give order in that as he pleased, and so took their leave of him. When they were gone as far as the Privy-Chamber, the King sent for them again; and told them, He had forgot to acquaint them with his Resolutions before the Message came, to send my Lord *Godolphin* next morning to the Prince, to propose his going back to *Rocheſter*, he finding by the Message Monsieur *Zuleſtein* was charged with, the Prince had no mind he should be at *London*; and therefore he now desired he might rather return to *Rocheſter*, than go to any other place. The Lords reply'd, That they would immediately send an Account to the Prince

Message deliver'd to K. J. by 3 Lords to remove to Ham.

K. J. desires to return to Rocheſter, of

Decemb.
And goes
hither.

of what his Majesty desired, and they did not doubt of such an Answer as would be to his satisfaction. Accordingly they sent to him, who was then at *Sion*, and before Eight next Morning there came a Letter from *Monfieur Benting*, by the Prince's Order, agreeing to the King's Proposal of going to *Rocheſter*: Whereupon he went (the Guards being made ready, and Boats prepared) that Night to *Graveſend* in his own Barge, attended by the Earl of *Arran* and some few others.

Pr. of O.
comes to S.
James's.

The ſame day, *Decemb. 18.* about Three in the Afternoon, his Highneſs the Prince of *Orange* came to *St. James's*, attended by *Monſieur Schomberg*, and a great number of the Nobility and Gentry, and was entertain'd with a Joy and Concourse of the People, which appeared free and unconſtrained, and all the Bells in the City were rung, and Bonfires in every Street.

December the 20th, the Prince of *Orange* publiſhed this Order for the Quarters of the *Engliſh Forces*.

H O R S E.

THE firſt Troop of Guards at *Maidſtone*.

The ſecond, *Chelmsford* in *Effex*.

The third, *St. Albans*, *Hertfordſhire*.

Royal Regiment, *Northampton*.

Queen's Regiment, *Cambridg*.

Peterborow, *Bedford*.

* *Sir John Fenwick's*, *Darkin* and *Ryegate*.

Lieutenant General *Werden's*, *Newbury*.

* *Earl of Selkirk's*, *Stamford*, *Lincoln*.

* *Late Hamilton's*, *Fenny-Stratford*, *Bucks*.

Princeſs of *Denmark's*, *Reading*.

Queen Dowager's, *Guilford* and *Godalming*.

Marquiſs de *Miremont*, *Aylesbury* and *Wendover*, *Bucks*.

Lord *Brandon's*, *Biſhop-Stafford*.

* *Col. Henry Slingsby*, *Buckingham* and *Winſlow*.

Regiments late of Colonel *Halman*, and *Earl of Salisbury*, at *Sevenoke*, *Kent*.

D R A G O O N S.

The Royal Regiment, *Farnham* and *Alton*, *Surrey*.

Queen's Regiment, at *Dunſtable*.

Prince's Regiment, *Burford* in *Oxfordſh*.

F O O T.

Firſt Regiment } *Portsmouth*,
of Guards, } *Tilbury*.

Cold-Stream } *Rocheſter*, *Dover*,
Regiment, } *Maidſtone*.

Royal Regiment, *Oxford*.

Queen Dowager's, *Wallingford*.

Prince *George's*, *Huntington*.

Holland Regiment, *Cheſham* and *Amerſham*.

Queen's, *Ware* and *Hertford*.

Royal Regiment of Fuſiliers, *Barnet*.

Princeſs of *Denmark's*, *Southampton*.

Late *Col. Nicholas's*, *Worceſter*.

Earl of Bath's, *Canterbury*.

Late *Earl of Litchfield's*, *Banbury*.

Earl of Huntington's, *Plymouth*.

Late *Sir Edw. Hales's*, *Waltham*.

* *Col. Tuſton's*, *Berwick*.

* *Col. John Hales's*, *Milton* and *Sittingburn*.

* *Col. Mac Elligot's*, *Chicheſter*.

* *Col. Richard's*, *Sudbury*.

Late *Col. Gage*, *Cheſter*.

Duke of Newcaſtle's, *Hull*, *Berwick*.

* *Col. Skelton's*, *Newport-Pagnel*.

Col. Arch. Douglas, *Stony-Stratford*.

S C O T C H F O R C E S.

Firſt Troop of Horſe-Guards, *Birciter*.

Second Regiment of Horſe, *Abington*.

Third Regiment of Foot-Guards, *Tame*.

Fourth, late *Col. Wachop's*, *Woodſtock*.

Fifth, late *Col. Bochan's*, *Witney*, *Oxf*.

Sixth, *Earl of Dunmore's Dragoons*, *Iſlip*.

I R I S H F O R C E S.

Lord *Forbes Regiment*, *Hatfield*, *Hertf*.

Col. Hamilton's, *Lewis*.

Col. Butler's Regiment of Dragoons,
East-Grimſtead.

Thus were the Forces divided, now there was no further occaſion for them; and the flying of this brave Army, which wanted nothing, before 14000 Men, may be a Leſſon to all Princes to truſt more to the Hearts of their People, than to any Forces without them: And if all this Army could not, or would not maintain *James II.* in his irregular way of Government, what Forces will be requiſite to reſtore him, againſt the three Eſtates and the Body of the Nation?

K. J. retires
privately
from Ro-
cheſter, and
goes for
France.

The King continued at *Rocheſter* till the 23d of *December*, and then about one or two in the morning privately withdrew himſelf, taking only with him *Mr. Ra-*

Sheldon

Sheldon and Mr. *Delabady*; he went towards *Dover*, and embark'd in a Vessel laid ready for his Transportation for *France*. The Queen, who went hence the 10th, arrived the 11th at *Calais*, and was in great pain (not knowing what had hapned in *England*) for the King, whom she expected every Tide. 1688.

The Queen upon her arrival in *France* dispatched this Letter to that King.

S. I R,

A Fugitive Queen, bathed in her Tears, has willingly exposed her self to the great Dangers of the Sea, to seek the Consolation, and enjoy the Protection of the greatest and most generous Monarch on the Earth: Her ill Fortune has in this however given her a Satisfaction, which the most distant Nations would greedily imbrace. Nor should the Necessity of her Affairs diminish the Price of it, seeing she has chosen this Sanctuary preferably to all others, which she might have found elsewhere. She thinks she has also given a clear demonstration of the Esteem she has for his Majesty's great Qualities, by entrusting the Prince of *Wales*, which was the most valuable thing she has in the World, to his Protection. That this Prince was too young to join with her in the Acknowledgment of the Protection which she persuaded her self she should find in *France*; but then the Gratitude of it entirely possessed the Heart of his Mother, who, in the midst of her Misfortunes, took pleasure in living under the Shadow of the Laurels of a Prince, who exceeded all that ever was great and eminent on the Earth.

The Queen's Letter to the French King, transcribed from the Histoire des Revolutions d'Angleterre, p. 400.

The King, before he withdrew the second time, wrote and left behind him this following Letter, which was afterwards printed by his Order in *London*.

His Majesty's Reasons for withdrawing himself from Rochester; writ with his own Hand, and ordered by him to be published.

THE World cannot wonder at my withdrawing my self now this second time. I might have expected somewhat better usage after what I writ to the Prince of *Orange* by my Lord *Feverham*, and the Instructions I gave him: but instead of an Answer, such as I might have hoped for, what was I to expect after the usage I received, by the making the said Earl a Prisoner, against the Practice and Law of Nations; the sending his own Guards at Eleven at Night, to take possession of the Posts at *Whitehall*, without advertising me in the least manner of it; the sending to me at One of the Clock at Midnight, when I was in Bed, a kind of Order, by three Lords, To be gone out of my Palace before Twelve that same Morning? After all this, how could I hope to be safe, so long as I was in the power of one, who had not only done this to me, and invaded my Kingdoms, without any just Occasion given him for it, but that did by his first Declaration lay the greatest Aspersions on me that Malice could invent, in that Clause of it which concerns my Son? I appeal to all that know me, nay, even to himself, that in their Consciences neither he nor they can believe me in the least capable of so unnatural a Villany, nor of so little common Sense, to be imposed on in a thing of such a nature as that. What had I then to expect from one, who by all Arts hath taken such pains to make me appear as Black as Hell to my own People, as well as to all the World besides? What effect that hath had at home, all Mankind hath seen by so general a defection in my Army, as well as in the Nation among all sorts of People.

K. James's Reasons for withdrawing.

I was born free, and desire to continue so; and tho I have ventured my Life very frankly on several Occasions, for the Good and Honour of my Country, and am as free to do it again (and which I hope I shall yet do, as old as I am, to redeem it from the Slavery it is like to fall under) yet I think it not convenient to expose my self to be secured, as not to be at liberty to effect it; and for that Reason to withdraw, but so as to be within Call whensoever the Nation's Eyes shall be opened, so as to see how they have been imposed upon by the specious Pretences of Religion and Property. I hope it will please GOD to touch their Hearts, out of his infinite Mercy, and to make them sensible of the ill Condition they are in, and bring them to such a Temper, that a Legal Parliament may be call'd; and that amongst other things which may be necessary to be done, they

Decemb. *they will agree to Liberty of Conscience for all Protestant Dissenters; and that those of my own Persuasion may be so far considered, and have such a share of it, as they may live peaceably and quietly, as English Men and Christians ought to do, and not be obliged to transplant themselves, which would be very grievous, especially to such as love their Country: And I appeal to all Men, who are considering Men, and have had Experience, whether any thing can make this Nation so great and flourishing, as Liberty of Conscience: Some of our Neighbours dread it.*

I could add much more to confirm what I have said, but now is not the proper time.

Rochester, Decemb. 22. 1688.

Having now attained that period of Time I designed, what followed being the Methods of redressing the Disorders we fell into by the Desertion, and the resetting the Government again, I must desire my Reader to make a stand with me, and to consider what it was could possibly work upon the Apprehensions of this Prince, to persuade him at first to entertain the Thoughts of leaving his People, and withdrawing into a Foreign Country.

When the Prince's Expedition was first certainly made known to him, he was resolved to have had a Parliament, upon a belief that he should be intirely Master of the Lower House, by reason of the Regulations, and other means then lately used; but yet it is probable he would have examined them Man by Man before they should have met.

But when all this was out of doors, and the Charters restored, he dreaded nothing more than a Parliament, and the rather, because the Prince had in his Declaration insisted, That *all the Violences and Disorders which have overturned the whole Constitution of the English Government, may be fully redressed in a Free and Legal Parliament.* This contained under it these things, which he would certainly chose to have perished, rather than have submitted to, by concurring with a Parliament.

*The Points
to be insisted
on in
Parliament.*

I. The first thing is, The Examination of the Birth of the Prince of *Wales* (as he is call'd) the but questioning of which, was a stab at the Heart of this Prince, as appears by his last Letter. And the Reflections on the Bishops Petition mention that as a thing not fit to be refer'd then to a Parliament. I will not blame them for this, considering the proof they were able to make of it.

II. The next thing was, that Justice would certainly have been demanded against all the Instruments of our former Calamities, whom he had pardoned, and was in Honour bound to protect, at least not to punish those whom he had hired or persuaded, or perhaps forced almost to become Criminals.

III. The third was, The consenting to the intire ruin of the Means or Hopes of ever settling Popery in *England*, and to the hanging some, and attainting Others of the Priests and Jesuits for doing what their Rules, Oaths and Vows oblige them to.

IV. He foresaw such a Parliament would not only for ever damn the Ecclesiastical Court and Dispensing Power, but would in all probability retrench much of his Revenue, and more of his legal and antient Prerogatives, especially after the Prince had got all the Forts into his Hands, and reduced the *English* Army to nothing. And this alone was a thing he would hardly have consented to, tho nothing else had been asked.

V. The Prince, he foresaw, would have insisted on the having some Forts in his hands; and the Parliament for their own security, and for the fixing a Faith which had not been over-nice, would have joined with him: So, said he, if I stay, I shall be a Nominal, rather than a Real King of *England*, and only serve as an Instrument to ruin my Religion, my Friends, the Monarchy, and the Child; and after all do and hear what is worse (to me) than a thousand Deaths.

At first he alledged, That the Disorders the Preparations to repel the Invasion caused, would not suffer a Parliament to meet. Secondly, After the Prince was landed, that all the Countries he had under him would not be free. Thirdly, That all that had joined with him, ought not to sit: but when he saw the whole Army and Nation (the *Roman* Catholicks excepted) of the same mind, mere force drove him to consent to call a Parliament; and when he had again considered the

Conse-

Consequences of it, he at last resolved to throw up the Crown all at once, rather than to submit to all these Hardships. 1688.

He seems to have had at the same time a flattering hope, that (1.) We would never be able long to agree, after he had made it impossible for us to have a Legal Parliament, by burning the Writs. (2.) That the Church of England Principles would, when the Fear and Disorder was over, form for him a potent Army in the Nation. And (3.) that the French King would lend him potent Forces, and good store of Money; and if he recovered the Throne by Force, he should be freed of all these Miseries, and have what he only wanted before, a Popish Army, to insure the Slavery of England for ever. *His hopes from the Principles of the Church of England.*

Now I would desire those Protestants who pretend, now too late, to be so zealous for him, to consider, whether what I have said would not have been expected from him by them for their Security; and what they would have done had he called a Parliament, and refused them all these things, and have insisted, That they should have taken his Word as to the Birth of the Prince of Wales, have suffered him to have been educated in France, and have suffered the Army, the Prerogative, the Ministers, and the Revenues to have continued entirely as they were, upon a Promise he would have used them better for the future.

If they say No; They would have had the best Security that Law or Reason could have required: Then all the hard things I have mentioned must have been granted them; and I much question whether he would now return to the Throne on those Terms.

If they say, we ought however to have treated with him, and have offered him Terms; I say, it would have come to a separate Treaty; and the Church, the Liberties of the Nation and the Government, would have been ruin'd that way; and when all had been done, no Bond (that he could have broken) would have held him longer than the Necessity had continued.

The only Advantage we could pretend to have by the coming over of the Prince of Orange with an Army, was to force the King to what he would never have yielded without that Force. Now when he had accordingly passed his Word to the Nation, in the Proclamation of the Thirtieth of November, That there should be a Free Parliament; and to the Prince of Orange, in his Message by the three Lords, That he would consent to every thing that could reasonably be required for the Security of those that come to it; and yet without any provocation would burn the Writs, and resolve to withdraw his Person before these Lords could possibly return him any Answer (for he promised the Queen to follow her, who went away the day before him) I say, this breach of his Word so solemnly made, and given both to the Nation and the Prince, shews that he was not Master of himself, but turned about by others whither they pleased. *No Promises of K. J. to be relied on.*

Now suppose the Prince had suffered him to continue at Whitehall, and to call a Third Parliament, what Assurance could he have given, that in the end of another forty Days we should not have the same Trick play'd us, and then in March or April have been left in the same state of Confusion we were in in December, to the certain ruin of these three Kingdoms, and Holland into the bargain? And when all had been done, the Scruples would have been the same they are now, the Obligations of the Oath of Allegiance the same, and the Sin of deposing a lawful Prince, who resolved to do the Nation no Right, would have been much greater and more scandalous, than barely to take him at his Word; and since he had left the Throne empty, when he needed not, to resolve he should ascend it no more.

Lastly, Suppose the Prince had been expelled by the King, Would the King have then granted us what he would not grant us now? Would he not have disbanded his Protestant Army, and have kept the Irish Forces in pay, and have every day increased them? What respect would he ever after this have shewn to the English Laws, Religion or Liberties, when he had had no longer any thing to fear? The memory of what happened after the Monmouth Defeat (tho effected only by Church of England Men) will certainly never be forgotten by others, whatever these Bigots of Loyalty may pretend or say.

That Expression of the Lord Churchill's, in his Letter [That he could no longer join with self-interested Men, who had framed Designs against his Majesty's true Interest, and the Protestant Religion, to give a Pretence by Conquest to bring them

Decemb. to effect] ought to be seriously considered by all the Protestants of the Nation: This one Argument prevailed upon him, when he ran the hazard of his Life, Reputation and Fortunes; and now they are all on the other side, I should consider very seriously, if I were one of them, what Answer I could make to this turned into a Question in the Day of Death and Judgment, before ever I should act the direct contrary to what he has done.

Reasons to
submit to
Pr. of O.
now King.

For my part I am amaz'd to see Men scruple the submitting to the present King; for if ever Man had a just Cause of War, he had; and that creates a Right to the thing gained by it: The King by withdrawing and disbanding his Army, yielded him the Throne; and if he had, without any more Ceremony, ascended it, he had done no more than all other Princes do on the like occasions; and when the King after this was taken and brought back by Force, he was no longer then bound to consider him, as one that *was*, but as one that *had been* King of *England*; and in that capacity he treated him with great Respect and Civility, how much soever the King complained of it, who did not enough consider what he had done to draw upon himself that Usage.

But when all is said that can be said, there may possibly be some Men to whom may be applied the Saying of *Joab*, *Thou lovest thine Enemies, and hatest thy Friends*; for *thou hast declared this Day, that thou regardest neither Princes, nor Servants*; for *this day I perceive, that if Absalom had lived, and all we had died this Day, then it had pleased thee well*. Had the Protestant Religion, the *English* Liberties, the Nobility and Gentry of this Nation, been all made one *Holocaust*, or Burnt-Offering, to their Reputations and Humours, their Scruples and School-niceties, and the Prince of *Orange* perished, or return'd Ruin'd or Inglorious into *Holland*; we should then have had the Honour of cutting up our Religion, our Laws, and our Civil Rights, with our own Swords; and we should have been the only Church under Heaven that had refused a Deliverance, and religiously and loyally had destroyed it self. In truth, the Men that would have purchased *Popery* and *Slavery* so dear, ought to have enjoyed both to the end of the World.

Court of
France dis-
approves
K. James's
Methods.

To reinforce these Thoughts the more effectually on the Minds of all *English*-men, I will here add the Judgment of the *French* Court concerning the late King of *England*, *James II.* published in print to all the World. The Court of *France* never approved (say they) of the false Methods of this Prince, but declared openly, That there was never any thing less Judicious than his Conduct; that he had always followed blind Counsels, which were very pernicious to his Repose and Security: That he had undertaken very imprudently to destroy the Protestant Religion, which was that of the State: That he made use of a Rigour which was not well understood, both against the Bishops and the Universities. That it was in him a great folly to desire the Repeal of the Test and Penal Laws, which the *English* esteemed the Sanctuary of their Nation: That his Affection for the Court of *Rome*, and the Monks which he desired to restore, was ridiculous and silly: And that his attempting to give Employments to the Catholics, which he had ravished from the Protestants, had given just cause to all the Members of the Estates to complain of his Injustice.

PART

PART the SECOND.

A Short Account of the Methods us'd for the Re-establishment of our Government. With Reflections on a Pamphlet stiled, The Desertion Discussed.

In a Letter to a Country Gentleman.

THE Prince of Orange being thus receiv'd in London the 18th of December, the Common Council of that City the same day assembled, and pass'd an Order that all the Aldermen and their several Deputies and two Common-Council Men for each Ward, should wait upon and congratulate his Highness the Prince of Orange upon his happy Arrival to the City, at such time and place as his Highness should appoint; and that the two Sheriffs and Mr. Common-Serjeant should wait upon the Prince, to know his pleasure when they should attend him, which was done the day after his Entry at *St. James's*, who appointed them the next day.

The Committee of the Common-Council came accordingly the 20th of December, and Sir George Treby, their Recorder, made him this Speech in their names.

May it please Your Highness,

THE Lord Mayor being disabled by Sickness, your Highness is attended by the Aldermen and Commons of the capital City of this Kingdom, deputed to congratulate Your Highness upon this great and glorious Occasion.

Sir Geo. Treby's Speech to the P. of O. from the Common Council.

In which labouring for Words, we cannot but come short in Expression, reviewing our late Danger, we remember our Church and State overrun by Popery and Arbitrary Power, and brought to the point of Destruction, by the Conduct of men (that were our true Invaders) that brake the Sacred Fences of our Laws, and (which was worst) the very Constitution of our Legislature.

So that there was no Remedy left but the last.

The only Person, under Heaven, that could apply this Remedy, was Your Highness.

You are of a Nation, whose Alliance in all times has been agreeable and prosperous to us. You are of a Family most Illustrious, Benefactors to Mankind; to have the Title of a *Sovereign Prince*, *Stadt-holder*, and to have worn the Imperial Crown, are amongst their lesser Dignities. They have long enjoy'd a Dignity singular and transcendent, viz. To be the Champions of Almighty God, sent forth in several Ages to vindicate his Cause against the greatest Oppressions. To this Divine Commission our Nobles, our Gentry, and among them our brave *English* Soldier, render'd themselves and their Arms upon your appearing.

GREAT SIR,

WHEN we look back to the last Month, and contemplate the Swiftneſs and Fulneſs of our present Deliverance; astoniſhed, we think it miraculous! Your Highneſs led by the hand of Heaven, and call'd by the voice of the People, has preserv'd our dearest Interests.

The Protestant Religion, which is Primitive Christianity, restor'd: Our Laws, which are our antient Title to our Lives, Liberties and Estates; and without which this World were a Wilderness.

But what Retribution can we make to Your Highness? Our Thoughts are full charg'd with Gratitude. Your Highness has a lasting Monument in the Hearts, in the Prayers, in the Praises of all good Men amongst us. And late Posterity will celebrate your ever-glorious Name, till Time shall be no more.

The first care of his Highness was the *English* Army, for which he made this Order.

WHEREAS upon the late irregular disbanding of the Forces, divers Soldiers carried away the Arms belonging to their respective Regiments, and have since lost or imbezeld the same: We do hereby direct and require all

Order of the P. of O. about the Army.

Decemb. Persons to whose hands the said Arms or any of them are come, or with whom they now remain, forthwith to deliver them to the said Soldiers or their Officers upon demand; and in default thereof, forthwith to bring them to the Officers of the Ordnance now attending at *Uxbridg, Hounslow, or the Tower of London*, in order to the returning the said Arms into the Stores of the Ordnance.

Given at *St. James's* the 21st of *December* 1688.

His next care was the appointing Quarters for the several *English, Scots, and Irish* Regiments, and the ordering them accordingly to repair to the places therein nam'd.

The same day was also a great Council of the Nobility, about sixty of the Peers then meeting at *St. James's*, who all (except two) subscrib'd a Paper in the nature of an Association. After which his Highness thus express'd himself.

My Lords,

I Have desired you to meet here to advise the best manner how to pursue the ends of my Declaration in calling a Free Parliament, for the preservation of the Protestant Religion, and restoring the Rights and Liberties of the Kingdom, and settling the same, that they may not be in danger of being again subverted.

Upon which it was resolved, That the said Proposals should be further debated the next day in the House of Peers at *Westminster*: And Sir *John Maynard*, Mr. *Holt*, Mr. *Polexfen*, Mr. *Bradford*, and Mr. *Atkinson*, five Counsellors at Law, were order'd to attend them for their Advice.

The 22^d the Lords Spiritual and Temporal assembled at *Westminster* in the House of Lords, and appointed *Francis Gwin Esq;* to sign such Orders as should be from time to time by them made; which was thus sign'd by

Tho. Ebor. Norfolk. Somerset. Grafton. Ormond. Beaufort. Northumberland. Hallifax. Oxford. Kent. Bedford. Pembroke. Dorset. Devonshire. Bullingbrook. Manchester. Rivers. Stamford. Tbanet. Scarfsdale. Clarendon. Burlington. Suffex. Macclesfield. Radnor. Berkely. Nottingham. Rochester. Fauconberg. Mordant. Newport. Weymouth. Hatton. W. Asaph. F. Ely. La Ware. R. Eure. P. Wharton. Paget. North and Grey. Chandois. Montague. Grey. Maynard. T. Fermyn. Vaughan. Carbery. T. Culpeper. Lucas. Delamere. Crew. Lumley. Carteret. Osulston.

These Peers thus assembled the 25th day of *December*, sign'd and presented to his Highness this Address.

WE the Lords Spiritual and Temporal assembled in this Conjunction, do desire your Highness to take upon you the Administration of Publick Affairs both Civil and Military, and the Disposal of the Publick Revenue, for the preservation of our Religion, Rights, Laws, Liberties and Properties, and of the Peace of the Nation; and that your Highness will take into your particular care the present Condition of *Ireland*, and endeavour by the most speedy and effectual means to prevent the Dangers threatening that Kingdom: All which we make our Requests to your Highness to undertake and exercise, till the meeting of the intended Convention the 22^d day of *January* next, in which we doubt not such proper Methods will be taken, as will conduce to the Establishment of these things upon such sure and legal Foundations, that they may not be in danger of being again subverted. Dated at the House of Lords *Westminster*, the 25th of *December*, 1688.

WE the Lords Spiritual and Temporal assembled at *Westminster* in this extraordinary Conjunction, do humbly desire your Highness to cause Letters to be written, subscrib'd by your self, to the Lords Spiritual and Temporal, being Protestants, and to the several Counties, Universities, Cities, and Boroughs, Cinque-Ports of *England, Wales*, and Town of *Berwick upon Tweed*; the Letters for the Counties to be directed to the Coroners of the respective Counties, or any one of them; and in default of the Coroners, to the Clerks of the Peace of the respective Counties: And the Letters for the Universities to be directed to the respective Vice-Chancellors; and the Letters to the several Cities, Boroughs, and Cinque-Ports, to be directed to the Chief Magistrates of each respective City, Borough, and Cinque-Port, containing Directions for the chusing in all such Counties, Cities, Boroughs and Cinque-Ports, within ten days after the receipt of the said

said respective Letters, such a number of Persons to represent them, as are of right to be sent to Parliament; of which Elections, and the times and places thereof, the respective Officers shall give notice within the space of five days at the least. 1688.

Notice of the intended Elections for the Counties to be publish'd in the Churches immediately after the time of Divine Service, and in all Market-Towns within the respective Counties; and notice of the intended Elections for the Cities, Universities, Boroughs, and Cinque-Ports, to be publish'd within the respective places. The said Letters and the Execution hereof to be return'd by such Officer or Officers, who shall execute the same, to the Clerk of the Crown in the Court of Chancery, so as the Persons so to be chosen may meet and sit at *Westminster* on the 22d day of *January* next. Dated at the House of Lords *Westminster*, December the 25th 1688.

Both which were sign'd by the Lords Spiritual and Temporal then assembled, and presented to his Highness the Prince of *Orange* the same day at *St. James's*.

The 28th of *December* the Prince of *Orange* return'd this Answer to the Peers then assembled at *St. James's*.

My Lords,

I Have consider'd of your Advice, and, as far as I am able, I will endeavour to secure the Peace of the Nation, until the meeting of the Convention in *January* next, for the Election whereof I will forthwith issue out Letters, according to your desire. I will also take care to apply the Publick Revenue to the most proper uses that the present Affairs require; and likewise endeavour to put *Ireland* into such a condition, as that the Protestant Religion may be maintain'd in that Kingdom: And I assure you, that as I came hither for the preservation of the Protestant Religion, and the Laws and Liberties of these Kingdoms, so I shall always be ready to expose my self to any hazard for the defence of the same.

The 26th, the Knights, Citizens, and Burgesses, who had serv'd in any of the Parliaments in the time of his late Majesty *Charles II.* as also the Lord Mayor, Aldermen, and fifty of the Common-Council of the City of *London*, being desir'd by his Highness to attend him; this day one hundred and sixty Members, and the rest came all (but the Mayor who was sick) to *St. James's*, and were by him acquainted with the State of things, and desir'd to repair to the Commons House at *Westminster*, where they chose *Mr. Powle* for their Speaker. Then sending to know what the Peers had done, the Addresses, as above recited, were deliver'd to them, with which they concurred; and the 27th they also presented them to the Prince, to whom he gave the same Answer he had given to the Lords the 28th in the Afternoon. *Members of the late Parliaments order'd to meet at Westminster.*

The 30th his Highness put out the usual Proclamation for the continuance of Sheriffs, Justices of the Peace, and other Officers and Ministers (not being Papists) to act in their respective places till the meeting of the Convention, or other Order to the contrary; excepting also all such Offices or Places, where since his Arrival in this Kingdom he had already or should hereafter otherwise provide.

The second of *January* he put out a Declaration for the better collecting the Publick Revenue, which I need not transcribe.

The fifth of *January* his Highness put out this following Order.

FOR the better preventing Disorders that may happen in any Borough, Corporation, or other place of Election of Members for the intended Convention, by any Soldiers quarter'd in those places, and that such Elections may be carried on with the greater Freedom, and without any colour of Force or Restraint; We do hereby strictly charge and require all Colonels and Officers in chief with any Regiment, Troop or Company, to cause such Regiments, Troops or Companies, to march out of the Quarters where such Election shall be made (the several Garisons only excepted) the day before the same be made, to the next adjoining Town or Towns, being not appointed for any Election, and not to return to their first Quarters until the said respective Elections be made and fully compleated; wherein they are not to fail, as they will answer the contrary at their peril. *January.*

January.
Nobility
and Gentry
of Scot-
land meet
by Order.

The *Scotish* Nobility and Gentry in and about *London* were also, by his Highness's Order summon'd to *St. James's*; where they met the 7th of *January* at three in the Afternoon: To whom the Prince made this Speech.

My Lords and Gentlemen,

THE only reason that induc'd me to undergo so great an Undertaking, was, that I saw the Laws and Liberties of these Kingdoms overturn'd, and the Protestant Religion in imminent danger; and seeing you are here so many Noblemen and Gentlemen, I have call'd you together, that I may have your Advice, what is to be done for the securing the Protestant Religion, and restoring your Laws and Liberties, according to my Declaration.

Then they withdrew to the Council-Chamber at *Whitehall*, and chose the Duke of *Hamilton* their President; and after some Debates, agreed to the Heads of a Paper, which they order'd to be drawn. The 8th they met again, and the Paper was read and approv'd, and order'd to be ingross'd. The Earl of *Arran* propos'd in this second Meeting, That it was his Advice, that the Prince of Orange should be moved to desire the King to return, and call a Free Parliament, for the securing our Religion and Property, according to the known Laws of the Kingdom, which (said he) in my humble opinion is the best way to heal all our Breaches. Which was disgusted by all, and seconded by none of them.

The 9th they met again, and sign'd the Paper, which was in these words.

The Scots
Address to
the P. of O.

WE the Lords and Gentlemen of the Kingdom of *Scotland*, assembled at your Highness's desire in this extraordinary Conjunction, do give your Highness our humble and hearty thanks, for your pious and generous Undertaking, for preserving of the Protestant Religion, and restoring the Laws and Liberties of this Kingdom.

In order to the attaining of these ends, our humble Advice and Desire is, That your Highness take upon you the Administration of all Affairs both Civil and Military, the disposal of the Publick Revenues, and Fortresses of the Kingdom of *Scotland*, and the doing of every thing that is necessary for the preservation of the Peace of the Kingdom, until a General Meeting of the States of the Nation, which we humbly desire your Highness to call, to be holden at *Edinburgh* the 14th day of *March* next, by your Letter or Proclamation, to be publish'd at the Market-Crosses of *Edinburgh*, and other head Burroughs of the several Shires and Stewartries, as sufficient Intimation to all concern'd, according to the Custom of the Kingdom: And that the publication of these your Letters or Proclamation be by the Sheriffs or Stewart-Clerks, for the Free-holders, who have the Value of Lands holden according to Law, for making Elections; and by the Town-clerks of the several Burroughs, for the meeting of the whole Burgesses of the respective Royal Burroughs, to make their Elections, at least fifteen days before the meeting of the Estates at *Edinburgh*; and the respective Clerks to make intimation thereof, at the least ten days before the Meeting for Election: And that the whole Electors and Members of the said Meeting at *Edinburgh*, qualified as above express'd, be Protestants, without any other Exception or Limitation whatsoever; to deliberate and resolve what is to be done for securing the Protestant Religion, and restoring the Laws and Liberties of the Kingdom, according to your Highness's Declaration. Dated the 10th day of *January*, 1689. at the Council-Chamber at *Whitehall*.

It was sign'd by about thirty Lords and eighty Gentlemen, and presented in their presence at *St. James's* by the Duke of *Hamilton* their President.

The 14th his Highness met the *Scotish* Lords and Gentlemen in the same place again, and spake to them as followeth.

My Lords and Gentlemen,

The P. of
O's Answer
to it.

IN pursuance of your Advice, I will, until the meeting of the Estates in *March* next, give such Orders concerning the Affairs of *Scotland*, as are necessary for the calling of the said Meeting for the preservation of the Peace, the applying of the Publick Revenue to the most pressing uses, and putting the Fortresses in the hands of Persons in whom the Nation can have a just confidence: And I do further assure you, that you will always find me ready to concur with you in every thing that may be found necessary for securing the Protestant Religion, and restoring the Laws and Liberties of the Nation.

The

The Earls of *Crawford* and *Lothian* being present in this last meeting, but coming up to *London* after the former, desired they might sign the said Address, and they accordingly did so. 1688.

The 8th day of *January*, his Highness put out a Declaration against quartering Soldiers on private Houses. *And that all Houses should be deemed Private Houses, except Victualling Houses, and Houses of Publick Entertainment, or such as sell Wine or any other Liquor by Retail. In all which Houses We do think fit, That all Officers and Soldiers be lodged by the Direction and Appointment of the Magistrates, Justices of the Peace, or Constables of the Place where such Forces shall come, and not otherwise. And we do hereby strictly forbid all Officers and Soldiers, upon any pretence whatsoever, to take up any Quarters for themselves or others, without such Direction or Appointment, upon pain of being cashiered, or suffering such other punishment as the offence shall deserve.*

The Prince found the Treasury very empty of Mony, the Cash in it being said to be but 40000 *l*. Whereupon he desired the City of *London* to advance a sum for his present Occasions, and the 10th of *January* they agreed to lend 100000 *l*. but it being raised by Subscriptions it amounted to above 150000 *l*.

The 16th of *January*, the Prince put out a Declaration to assure the Mariners and Seamen of their Pay, and suppress the false Reports had been spread to the contrary by the Discontented Party.

The Elections of the Members for the *Convention* in the mean time went on with the greatest Liberty that could possibly be conceived; every Man giving his Vote for whom he pleased, without the least Sollicitation from the Prince or any of his. There had been Writs before this twice for a Parliament in a few Months, and almost every Place had before this fixed their Members; so that the difference was not great between the Men that were, and those that would have been chosen, if the King had suffered the first or second Parliament he called, to have met: and this gives the truest Idea that can be desired of the Temper of the Nation, and what would have been the Event if either of those Parliaments had sat.

The two Houses met the 22d of *January*, and the upper House (there being no Lord Chancellor) chose the Marquis of *Hallifax* for their Speaker, and the Commons chose *Henry Powle Esq*; after which a Letter was read in both Houses from his Highness the Prince of *Orange* on the Occasion of their Meeting, which was as followeth.

My Lords,

I Have endeavoured to the utmost of my Power, to perform what was desired from me in order to the publick Peace and Safety; and I do not know that any thing hath been omitted which might tend to the preservation of them, since the Administration of Affairs was put into my hands. It now lieth upon you to lay the Foundations of a firm Security for your Religion, your Laws, and your Liberties. P. of O's
Letter to
the Lords.

I do not doubt, but that by such a full and free Representative of the Nation, as is now met, the Ends of my Declaration will be attained: And since it hath pleased God hitherto to bless my good Intentions with so great success, I trust in him, that he will compleat his own Work, by sending a Spirit of Peace and Union to influence your Counsels, that no interruption may be given to a happy and lasting Settlement.

The dangerous condition of the Protestants in *Ireland*, requiring a large and speedy Succour, and the present state of things abroad, oblige me to tell you, that next to the danger of unseasonable Divisions amongst our selves, nothing can be so fatal as too great delay in your Consultations: The States, by whom I have been enabled to rescue this Nation, may suddenly feel the ill effects of it, both by being too long deprived of the Service of their Troops which are now here, and of your early Assistance against a powerful Enemy, who hath declared a War against them. And as *England* is by Treaty already engaged to help them upon such Exigencies, so I am confident that their cheerful concurrence to preserve this Kingdom with so much hazard to themselves, will meet with all the Returns of Friendship and Assistance, which may be expected from you as Protestants and *Englishmen*, whenever their condition shall require it.

Given at St. James's the 22d day of *January*, 1688.

For the Lords Spiritual and Temporal
Assembled at Westminster.

W. H. P. d'Orange.

The

January.

The first thing the Houses took care of was by mutual consent to draw up and present the following Address.

The Address of the Lords Spiritual and Temporal, and Commons assembled at *Westminster* in this present Convention to his Highness the Prince of Orange.

Die Martis 22^o Januarii, 1688.

Address of
the Lords
and Com-
mons to the
P. of O.

WE the Lords Spiritual and Temporal, and Commons assembled at *Westminster*, being highly sensible of the great Deliverance of this Kingdom from Popery and Arbitrary Power, and that our Preservation is (next under God) owing to your Highness, do return our most humble Thanks and Acknowledgments to your Highness, as the Glorious Instrument of so great a Blessing.

We do further acknowledg the great Care your Highness has been pleased to take in the Administration of the publick Affairs of the Kingdom to this time; and we do most humbly desire your Highness, that you will take upon you the Administration of publick Affairs both Civil and Military, and the Disposal of the Publick Revenue, for the Preservation of our Religion, Rights, Laws, Liberties and Properties, and of the Peace of the Nation: And that your Highness will take into your particular care the present state of *Ireland*, and endeavour by the most speedy and effectual means to prevent the Dangers threatening that Kingdom. All which we make our Request to your Highness to undertake and exercise, till further Applications shall be made by us, which shall be expedited with all convenient speed; and we shall also use our utmost endeavours to give dispatch to the matters recommended to us by your Highness's Letter.

To this Address thus presented by both Houses at *St. James's*, the Prince of Orange made this Reply the same day.

My Lords and Gentlemen,

I Am glad that what I have done hath pleased you: And since you desire me to continue the Administration of Affairs, I am willing to accept it. I must recommend to you the consideration of Affairs abroad, which maketh it fit for you to expedite your business; not only for making a Settlement at home upon a good foundation, but for the safety of all Europe.

A Day of
Publick
Thanksgiving
order'd.

The Houses also ordered that Thursday the 31th of January instant, be appointed for a Day of Publick Thanksgiving to Almighty God in the Cities of *London* and *Westminster*, and ten miles distant, for having made his Highness the Prince of Orange the Glorious Instrument of the great Deliverance of this Kingdom from Popery and Arbitrary Power, and that Thursday the 14th of February next be appointed for a Publick Thanksgiving throughout the whole Kingdom for the same.

The 23^d of January the Lords passed this Order,

Ordered by the Lords Spiritual and Temporal assembled at *Westminster*, That no Papist, or reputed Papist, do presume to come into the Lobby, Painted Chamber, Court of Request, or *Westminster-Hall*, during the sitting of this Convention. And it is further ordered, That this Order be printed and published, and set upon the doors of the said Rooms.

The 28th of January the Commons passed this Vote:

Vote of the
House of
Commons
about the
Abdication.

Resolved, That King James the II. having endeavoured to subvert the Constitution of this Kingdom, by breaking the Original Contract between King and People; and by the Advice of Jesuits and other wicked Persons, having violated the Fundamental Laws, and having withdrawn himself out of this Kingdom, hath abdicated the Government, and that the Throne is thereby vacant.

Resolved, That this Vote be sent up to the Lords House to morrow morning for their Concurrence.

This Vote occasioned the Letter I am to examine.

Hereupon followed several Conferences between the Lords and the Commons, none of which being printed, and the written Copies dispersed about the Town being of no good Authority, I must leave them unrelated.

I have taken the utmost Care to procure a Copy of these Conferences, but I cannot get one which I can rely upon as certain. And I durst not publish one that had no Authority.

February

The sixth of February the Lords at last assented to the Vote above.

The

The 29th of January this Question was proposed in the Lords-House, "Whether a Regency with the Administration of Regal Power under the Name and Stile of King James the second, during the Life of the said King James, be the best and safest way to preserve the Protestant Religion, and the Laws of the Kingdom?"

1688.

Upon which the House divided } Contents 48.
Non-contents 51.

This very much facilitated the Concurrence of the two Houses in the other Vote. The Throne being thus declared vacant, some were for the Prince of Orange to be elected King alone, others for the Princess to be forthwith proclaimed and acknowledged as next Immediate Heir of the Crown of England, and others were for a Commonwealth. But the two strongest Parties were those who were for the Prince, and those that were for the Princess; so that at last there was a way found to twist these two into one by giving the Title indifferently to both, and the Administration solely to the Prince, to avoid the inconvenience of two co-ordinate Sovereigns.

Whilst these things were warmly debated in the Convention and the Town, and all Men were yet in suspense which way they would be determin'd, some that were over-zealous set a-foot the following Petition the first of February, and endeavoured to have it subscribed by the Multitude indifferently, going up and down to publick places to sollicite Subscriptions.

To the Lords Spiritual and Temporal Assembled in the Grand Convention, the Humble Petition of great Numbers of Citizens, and other Inhabitants of the Cities of London and Westminster.

VV Hereas we are in a deep sense of the danger of Delays, and perplex Debates about settling the Government, at this time Vacant, by reason whereof the necessary Ends of Government cannot be duly administred:

We humbly desire that his most Illustrious Highness the Prince of Orange, and his Royal Consort the Princess, may be speedily settled in the Throne, by whose Courage, Conduct and Reputation, this Nation and the Protestant Religion may be defended from our Enemies at home and abroad; And that Ireland now in a bleeding and deplorable condition, may be rescued from its Miseries, and these Kingdoms settled on a lasting foundation in Peace and Liberty.

Whereupon his Highness being informed of the ill consequences and scandal of this way of proceeding, caused this Order to be made and publish'd to suppress it.

By the Mayor.

VV Hereas his Highness the Prince of Orange hath been pleased to signifie to me this day, That divers persons (pretending themselves to be Citizens of London) in a tumultuous and a disorderly manner have lately disturbed the present Convention of the Lords and Commons at Westminster, upon pretence of Petitioning. It being regular and usual for the Citizens of this City that are under the apprehension of any Grievance, to make their application to my self and the Court of Aldermen: Therefore with the Advice of my Brethren, the Aldermen of this City, these are to require you, That you command within your Ward, that they forbear any such tumultuous Disturbance, or Assembly; as they will answer the contrary at their utmost peril. Dated the third day of February 1688.

The twelfth of February the two Houses at last fully agreed all things in dispute between them in this manner.

The Declaration of the Lords Spiritual and Temporal, and Commons assembled at Westminster.

VV Hereas the late King James the Second, by the Assistance of divers evil Counsellors, Judges and Ministers employ'd by him, did endeavour to subject and extirpate the Protestant Religion, and the Laws and Liberties of this Kingdom.

Articles of Misgovernment against K. J.

By assuming and exercising a power of dispensing with and suspending of Laws, and the Execution of Laws without consent of Parliament.

By committing and prosecuting divers worthy Prelates, for humbly petitioning to be excus'd from concurring to the said assum'd Power.

Februar.

By issuing and causing to be executed a Commission under the Great Seal for erecting a Court, call'd *The Court of Commission for Ecclesiastical Affairs*.

By levying Mony for and to the use of the Crown, by pretence of Prerogative, for other time and in other manner, than the same was granted by Parliament.

By raising and keeping a Standing Army within the Kingdom in time of Peace, without consent of Parliament; and quartering Soldiers contrary to Law.

By causing several good Subjects, being Protestants, to be disarm'd, at the same time when Papists were both arm'd and imploy'd contrary to Law.

By violating the Freedom of Elections of Members to serve in Parliament.

By Prosecutions in the Court of *Kings-Bench*, for Matters and Causes cognizable only in Parliament, and by divers other arbitrary and illegal Courses.

And whereas of late years partial, corrupt, and unqualified Persons have been return'd and serv'd on Juries in Trials, and particularly divers Jurors in Trials for High Treason, which were not Free-holders.

And excessive Bail hath been requir'd of Persons committed in criminal cases, to elude the benefit of the Laws made for the Liberty of the Subject.

And excessive Fines have been impos'd.

And illegal and cruel Punishments inflicted.

And several Grants and Promises made of Fines and Forfeitures before any Conviction or Judgment against the Persons upon whom the same were to be levied.

All which are utterly and directly contrary to the known Laws and Statutes, and Freedom of this Realm.

And whereas the late King *James* the Second having abdicated the Government, and the Throne being thereby vacant;

His Highness the Prince of *Orange* (whom it hath pleas'd Almighty God to make the glorious Instrument of delivering this Kingdom from Popery and Arbitrary Power) did (by the Advice of the Lords Spiritual and Temporal, and divers principal Persons of the Commons) cause Letters to be written to the Lords Spiritual and Temporal being Protestants, and other Letters to the several Counties, Cities, Universities, Boroughs and Cinque-Ports, for the chusing such Persons to represent them, as were of right to be sent to Parliament, to meet and sit at *Westminster* upon the 22^d day of *January* 1688, in order to such an Establishment, as that their Religion, Laws and Liberties might not again be in danger of being subverted, upon which Letters Elections have been accordingly made.

And thereupon the said Lords Spiritual and Temporal, and Commons, pursuant to their respective Letters and Elections, being now assembled in a full and free Representative of this Nation, taking into their most serious consideration the best means for attaining the Ends aforesaid, do in the first place (as their Ancestors in like case have usually done) for the vindicating and asserting their antient Rights and Liberties, declare,

That the pretended Power of suspending of Laws, or the execution of Laws by Regal Authority without consent of Parliament, is illegal.

That the pretended Power of dispensing with Laws, or the execution of Laws by Regal Authority, as it hath been assum'd and exercis'd of late, is illegal.

That the Commission for erecting the late *Court of Commissioners for Ecclesiastical Causes*, and all other Commissions and Courts of the like nature, are illegal and pernicious.

That levying of Mony to or for the use of the Crown, by pretence of Prerogative, without Grant of Parliament, for longer time, or in other manner, than the same is or shall be granted, is illegal.

That it is the Right of the Subjects to petition the King, and all Commitments and Prosecutions for such petitioning are illegal.

That the raising or keeping a Standing Army within the Kingdom in time of Peace, unless it be by consent of Parliament, is against Law.

That the Subjects, being Protestants, may have Arms for their Defence suitable to their Condition, and as allowed by Law.

That the Election of Members of Parliament ought to be Free.

That the Freedom of Speech, and Debates, or Proceedings in Parliament, ought not to be impeached or questioned in any Court or Place out of Parliament.

That excessive Bail ought not to be requir'd, nor excessive Fines impos'd, nor cruel and unusual Punishments inflicted.

That

That Jurors ought to be duly impanel'd and returned, and Jurors which pass upon Men in Trials for High-Treason ought to be Freeholders. 1688.

That all Grants and Promises of Fines and Forfeitures of particular Persons before Conviction, are illegal and void.

And that for Redress of all Grievances, and for the amending, strengthening, and preserving of the Laws, Parliaments ought to be held frequently.

And they do claim, demand, and insist upon all and singular the Premises as their undoubted Rights and Liberties; and that no Declarations, Judgments, Doings, or Proceedings, to the prejudice of the People in any of the said Premises, ought in any wise to be drawn hereafter into Consequence or Example.

To which demand of their Rights they are particularly encouraged by the Declaration of his Highness the Prince of *Orange*, as being the only Means for obtaining a full Redress and Remedy therein.

Having therefore an intire Confidence, that his said Highness the Prince of *Orange* will perfect the Deliverance so far advanc'd by him; and will still preserve them from the violation of their Rights, which they have here asserted, and from all other Attempts upon their Religion, Rights and Liberties;

The said Lords Spiritual and Temporal, and Commons assembled at *Westminster*, do resolve,

That *William* and *Mary*, Prince and Princess of *Orange*, be and be declared King and Queen of *England*, *France*, and *Ireland*, and the Dominions thereunto belonging, to hold the Crown and Royal Dignity of the said Kingdoms and Dominions, to them the said Prince and Princess during their Lives, and the Life of the Survivor of them; and that the sole and full Exercise of the Regal Power be only in, and executed by the said Prince of *Orange*, in the names of the said Prince and Princess during their joint Lives; and after their deceases, the said Crown and Royal Dignity of the said Kingdoms and Dominions to be to the Heirs of the Body of the said Princess; and for default of such Issue, to the Princess *Anne* of *Denmark*, and the Heirs of her Body; and for default of such Issue, to the Heirs of the Body of the said Prince of *Orange*. William and Mary declared K. and Q. of England, &c.

And the said Lords Spiritual and Temporal, and Commons, do pray the said Prince and Princess of *Orange* to accept the same accordingly.

And that the Oaths hereafter mentioned, be taken by all Persons of whom the Oaths of Allegiance and Supremacy might be required by Law, instead of them; and that the said Oaths of Allegiance and Supremacy be abrogated.

I A. B. Do sincerely Promise and Swear, That I will be faithful, and bear true Allegiance to their Majesties King *WILLIAM* and Queen *MARY*. So help me God.

I A. B. Do Swear, That I do from my Heart abhor, detest, and abjure, as Impious and Heretical, this damnable Doctrine and Position, That Princes excommunicated or Deprived by the Pope, or any Authority of the See of *Rome*, may be deposed or murdered by their Subjects, or any other whatsoever. And I do declare, that no Foreign Prince, Person, Prelate, State, or Potentate, hath or ought to have any Jurisdiction, Power, Superiority, Prebeminence or Authority, Ecclesiastical or Spiritual, within this Realm.

So help me God.

Jo. Brown, Clericus Parliamentorum.

The same day this Declaration bears Date, her Royal Highness the Princess of *Orange* arrived in the River of *Thames* in the Afternoon, and was received with all the hearty Demonstrations and Expressions of Joy by the City, that are usual on such Occasions. The Princess of Orange lands at Whitehall.

The 13th of *February*, The Lords and Commons ordered the following Proclamation to be published and made.

V Hereas it hath pleased Almighty God in his great Mercy to this Kingdom, to vouchsafe us a miraculous Deliverance from Popery and Arbitrary Power; and that our Preservation is due, next under GOD, to the Resolution and Conduct of his Highness the Prince of *Orange*, whom GOD hath chosen to be the glorious Prince and Princess of Orange proclaim'd K. and Q.

Februar.

ous Instrument of such an inestimable Happiness to us and our Posterity : And being highly sensible, and fully perswaded of the great and eminent Vertues of her Highness the Princess of *Orange*, whose Zeal for the Protestant Religion, will, no doubt, bring a Blessing along with her upon this Nation : And whereas the Lords and Commons now assembled at *Westminster*, have made a Declaration, and presented the same to the said Prince and Princess of *Orange*, and therein desired Them to accept the Crown, who have accepted the same accordingly : We therefore the Lords Spiritual and Temporal, and Commons, together with the Lord Mayor and Citizens of *London*, and others of the Commons of this Realm, do with full Consent publish and proclaim, according to the said Declaration, *William* and *Mary*, Prince and Princess of *Orange*, to be King and Queen of *England*, *France*, and *Ireland*, with all the Dominions and Territories thereunto belonging ; Who are accordingly so to be owned, deemed, and taken, by all the People of the aforesaid Realms and Dominions, who are from henceforward bound to acknowledg, and pay unto them all Faith and true Allegiance ; beseeching God, by whom Kings reign, to bless King *William* and Queen *Mary*, with long and happy Years to reign over us.

God save King *William* and Queen *Mary*.

John Brown Clericus Parliamentorum.

The 15th of *February* the Lords and Commons ordered, that his Majesty's most gracious Answer this day be added to the engrossed Declaration in Parchment, to be enroll'd in Parliament and Chancery ; which is as followeth.

My Lords and Gentlemen,

THIS is certainly the greatest proof of the Trust you have in Us that can be given, which is the thing that maketh Us value it the more ; and We thankfully accept what you have offered. And as I had no other Intention in my coming hither, than to preserve your Religion, Laws and Liberties : So you may be sure that I shall endeavour to support them, and shall be willing to concur in any thing that shall be for the Good of the Kingdom, and to do all that is in my Power to advance the Welfare and Glory of the Nation.

The Conclusion.

Thus ended that stupendous Revolution in *England*, which we have so lately seen, to the great Joy of the generality of the Protestants of *Europe*, and of many of the Catholick Princes and States, who were at last convinced, that the attempting to force *England* to return under the Obedience of the See of *Rome* in the present conjuncture of Affairs, would certainly end in the ruin of this potent Kingdom ; and whilst it was doing, the present *French* King would possess himself of the remainder of the *Spanish Netherlands*, and the *Palatinate*, and perhaps of the Electorates of *Cologne*, *Mentz*, and *Triers*, a great part of which he hath actually seized, whilst the Prince of *Orange* was thus gloriously asserting the *English* Liberty.

Reasons for the suddenness of the late Revolution and present Settlement.

The true Reasons of the swiftness of this Change may easily be assigned, by shewing the Temper and Designs of *James II.* The Temper of *William III.* our present Sovereign, and the Nature of the *English* Nation, and of the Times, all concurring with wonderful Harmony to produce this wonderful Effect : For had *James II.* undertook any thing but the subjecting *England* to Popery, and the exercise of an Arbitrary Power to that end ; his vast Revenue, and personal Valour, and the Reputation he had gained at home and abroad by the defeat of the *Monmouth* Invasion, would have gone near to have effected it : And after all this, if he had in the beginning of *October* frankly granted all the Ten Proposals made by the Bishops, and suffered a Parliament to have met, and given up a considerable number of his Ministers to Justice, and suffered the pretended Prince of *Wales* his Birth to be freely debated and determin'd in Parliament ; it would in all probability have prevented or defeated the then intended Invasion. But whilst he thought to save the pretended Succession, the dispensing and suspending Power, and the Ecclesiastical Commission to carry on his former Design with, when he had baffled the Prince of *Orange* ; the Nation saw through the Project, and he lost all.

Had a Prince of less Secrecy, Prudence, Courage and Interest than the Prince of *Orange*, undertaken this Business, it might probably have miscarried ; but as his Cause was better, so his Reputation, Conduct, and Patience infinitely exceeded theirs ; he would not stir till he saw the *French* Forces set down before *Philippsbourg*, and then he was sure *France* and *Germany* were irrevocably engaged in a War, and consequently he should have no other opposition than what the *Irish* and *English*

lish Roman Catholicks could make against him. For no *English* Protestant would fight his Country into Vassalage and Slavery to Popish Priests, and *Italian* Women, when a Parliament sooner or later must at last have determin'd all the things in Controversie, except we resolved once for all to give up our Religion, Laws, Liberties, and Estates to the Will of our King, and submit for ever to a *French* Government.

A Nation of less sense than the *English* might have been imposed upon, of less Bravery and Valour might have been frightened, of a more servile Temper might have neglected its Liberties, till it had been too late to have ever recovered them again: But none but a parcel of Jesuits bred in a Cloister, and unacquainted with our Temper, as well as Constitution, would ever have hoped to have carried two such things as Popery and Arbitrary Power, both at once, upon so jealous a Nation as the *English* is, which hates them above any other People in the World.

The cruel Slaughter they had made of the poor Wretches they took after the Defeat at *Bridgwater*, ought to have made them for ever despair of gaining any Credit with the Dissenters, who (like some others) rarely forgive, but never forget any ill Treatment. Yet these little *Politico's* had so little sense, as to build all their Hopes on the Gratitude and Insensibility of these Men; as if they should for Liberty of Conscience, arbitrarily and illegally granted, and consequently revocable at the Will of the Granter, have sold themselves to everlasting Slavery.

They were equally mistaken in their Carriages towards the Church of *England* Party: for when some of them had pursued both Clergy and Laity with the utmost Obloquy, Hatred, Oppression and Contempt, till the very Moment they found the *Dutch* Storm would fall upon them; then all at once they passed to the other Extreme, the Bishops are presently sent for, the Government intirely to be put into their Hands, and all Places, Presses and Papers fill'd with the Encomiums of the Church of *England's* Loyalty and Fidelity, who but three days before were Malecontents, if not Rebels and Traytors, for opposing the King's Dispensing Power, and the Ecclesiastical Commission. And which was the height of Folly, the same Pen which had been hired to defame and blacken the Church of *England* (the Author of the *Publick Occurrences truly stated*) was ordered to magnify its Loyalty. By which they gained nothing but the intire and absolute disobliging the whole *Protestant Party* in the Nation, so that for the future no body would serve or trust them.

To compleat their Folly and Madnes, they persuaded the King to throw up the Government and retire into *France*, pretending we would never be able to agree amongst our selves, but would in a short time be forced to recal him, and yield to all those things we had so violently opposed; or if not, he might yet at least force us to submit by the Succours he might gain in *France*: without ever considering how possible it was we might agree, and how difficult it would be to force us by a *French* Army, which was equally contrary to the Interest of *England* and all *Europe* besides, and to all Intents and Purposes destructive of the Interest of that Prince they pretended thus to exalt and re-establish.

The Folly
of K. J's
Advisers.

Had *France* been now in Peace, there might yet have been some colour for this; but when all *Europe* was under a necessity to unite against him for its own Preservation, then to perswade the King of *Great Britain* to desert his Throne, and fly thither for Succour, upon hopes of recovering his Kingdoms again by the Assistance of the *French* (the mortal and hereditary Enemies of the *English*) this was so silly a Project, that there seems to have been something of a Divine Infatuation in it.

However, certainly no rational Man will think that all the Princes of *Europe* would sit still and suffer the *French* King to conquer *Britain*, under pretence of restoring *James* the Second to that Throne which he had abandon'd, because he could not bring the Prince of *Orange* (their Allie) and all his Protestant Subjects to his own Terms.

And yet if none of them should interpose but the *Hollanders* alone, the *English* and *Dutch* Fleets being united, would render the landing a *French* Army so difficult and uncertain, that it would be next door to madness to trust one to their Navy, which is so much inferior to either of the others singly taken.

So that all things considered, either *James* the Second ought to have stayed at home and have made as good Terms as he could with the Prince of *Orange*, and his own Subjects: Or if he would have abandon'd his Kingdoms, he ought to have despaired

March. despaired of any Restitution, and have betaken himself to a private Life, as *Christina* Queen of *Sweden* did.

K. James
comes into
Ireland.

Since I finished that which goes before, we have certain Intelligence that *James* the Second landed the 12th of *March* at *Kingsale* in *Ireland*, so that now it cannot be doubted but that he hopes to recover *England* and *Scotland* by the help of the *Irish*; which is all one as if he had done it by the *French*. His succeeding in this Design laying us at the Mercy of an *Irish* Roman Catholick Army, whose Civility and Kindness to our Nation we may learn from our Countrymen, who after having lost all but their Lives, have been forced to flee over to us for shelter and protection. I shall not add any other Consideration to perswade my Countrymen to defend their King, Queen, and the whole Protestant Succession, their Lives, Liberties, Privileges and Religion, because this alone is sufficient.

The DESERTION Discuss'd.

In a Letter to a Country Gentleman.

S I R,

Objections
against the
Desertion.

1. **I** Don't wonder to find a Person of your Sense and Integrity so much surprized at the Report of the Throne's being declared Vacant by the Lower House of the Convention: For how (say you) can the Seat of the Government be empty, while the King, who all grant had an unquestionable Title, is still living, and his Absence forced and involuntary? I thought our Laws, as well as our Religion, had been against the Deposing Doctrine; therefore I desire you would expound this State Riddle to me, and give me the Ground of this late extraordinary Resolution. In answer to your Question, you may please to take notice, That those Gentlemen of the Convention, and the rest of their Sentiments, who declare a Vacancy in the Government, lay the main stress of their Opinion upon his Majesty's withdrawing himself: For now, especially since the Story of the French League, and the Business of the Prince of Wales, are passed over in silence, most Men believe that the pretended Breach of that which they call The Original Contract, was designed for no more than a popular Flourish.

§. 2. And that you may not be shocked by seeing the Votes of so considerable and publick a Meeting debated by a private Hand, give me leave to remind you, That a Parliament, and a Convention, are two very different things: The latter, for want of the King's Writs and Concurrence, having no share in the Legislative Power. If it's urg'd, that the present Posture and Exigence of Affairs, is a sufficient Dispensation with the usual Preliminaries and Forms of Parliament: To this I'm oblig'd to answer, that this pretended Necessity is either of their own making, or of their own submitting to, which is the same thing; and therefore ought not to be pleaded in justification of their Proceedings. For if his Majesty had either not been driven out of his Dominions, or invited back upon honourable Terms, they needed not to have had recourse to these singular Methods. And since they had neither the Authority of Law, or Necessity to support their Determinations, I hope they will not think themselves disobliged, if they are inquired into; and some part of that Liberty which they have taken with his Majesty be returned upon themselves: For all private and unauthorized Opinions are to be regarded no farther than they prove their Point. Like Plate, without the Royal Impression, they ought not to be obtruded for current Coin; nor rated any higher than the intrinsic Value of the Metal. Let us examine therefore, if his Majesty has done any thing which imports, either in it self or by necessary Consequence, That he has voluntarily resigned his Crown, and discharged his Subjects of their Allegiance. Now the Author of the Enquiry into the present State of Affairs, &c. for whose Judgment the Commons seem to have a very great regard, as appears from their Concurrence with him; for their most considerable Votes are, in a manner, transcribed from his 11th Paragraph. This Author tells us, pag. 5. That when a King withdraws himself, and his Seals, without naming any Persons to represent him, the Government is certainly laid down and forsaken by him. Tho afterwards he is so good natured as to add, That if any imminent present Danger, or just

just Fear (tho indeed a King can never be decently suspected of that; I suppose his Reason is, because Kings are invulnerable) had driven his Majesty away, it might seem a little too hard to urge this too much.

§. 3. In order to the confuting this Notion, I shall prove in the

First place, That his Majesty before his withdrawing, had sufficient Grounds to make him apprehensive of Danger; and therefore it cannot be called an Abdication.

Secondly, That the leaving any Representatives behind him was impracticable at this Juncture.

Thirdly, That we have no Grounds, either from the Laws of the Realm, or those of Nature, to pronounce the Throne void upon such a Retreat of a King.

§. 4. But before I do this, it's not improper to observe, that this pretence of a Demise, if it signified any thing, cannot affect Scotland or Ireland: Not the first, for there his Majesty's Commissioners acted in the usual manner till they were disturbed: Nor the second, for that Kingdom continues still under the regular Administration of the Lord-Lieutenant. Neither is it sufficient to say, That Ireland is an Appendage to the Crown of England, and therefore it must follow its Revolution. For allowing a Demise was really consequent upon a Failure of Seals and Representatives, yet there would be no colour to apply it to a Case where there was no such Omission; for no Forfeiture ought to be stretched beyond the Reason upon which it is grounded. But this is only by the way; I shall proceed to prove the first thing propounded, viz. That his Majesty, before his withdrawing, had sufficient Grounds to make him apprehensive of imminent Danger.

§. 5. We are now fallen upon Times in which the most extravagant and almost impossible things are swallowed without chewing, and the plainest Truths outfaced and denied; as if Evidence was an Argument against Proof, and Absurdities the only Motives of Credibility: So that now, if ever, we seem fit for Transubstantiation. Had not some Men believed this true in a great measure, they would never have disputed against Matter of Fact, which was done almost in the Face of the whole Kingdom. To speak to the present Case; Had not his Majesty great Reason to retire, to secure his Person and his Honour, at his first withdrawing from Whitehall? which is the time from which our Author dates his pretended Desertion (for he will not allow him to be King at his return) I say, had not his Majesty great Reason to retire when he had met with so many unfortunate Disappointments, with so many surprizing and unparallel'd Accidents? when part of the Army was revolted, and the remainder too apparently unserviceable? when the People had such fatal and unremovable Prejudices against his Majesty's Service? when there were such terrible Disorders in the Kingdom, and all places were either flaming, or ready to take Fire? What should a Prince do, when he had scarce any thing left him to lose but himself, but consult his Safety, and give way to the irresistible Evil? But our Author pretends the King's Affairs had a much better Aspect; let us observe how he proves it. Why, he tell us, That when the Prince of Orange's Proposals came to his Majesty, the Army and the Fleet were left in his hands. They were so, that he might pay them for the Prince's Service; for they owed his Majesty's Authority scarce any other way than by receiving his Money, and eating up his Meat. (It's to be hoped they have since repented of their Actions.) But the Enquirer goes on with his Inventory of Forts and Revenues, which the King was to have still. He may know, if he pleases, that we have but four considerable Forts in the Kingdom. Now Hull and Plimouth had already disposed of themselves, and the Tower of London was demanded for the City; so that there was none but Portsmouth remaining. And as for the Revenues, it's to be feared, the Northern Collections would have been almost as slender as those in the West. And now one would think our Author began to relent; for he owns, That some things which the Prince of Orange proposed, may be called hard; viz. his demanding that the Laws against Papists who were in Employment might be executed. But the Enquirer is much mistaken, if he thinks the Prince of Orange insisted upon no more than the bare execution of the Law in this Point. For the disbanding of all Papists (which was part of his Proposals) is much more than what the Law requires; by which the Papists are only excluded from Offices of Command and Trust. But neither the Test-Acts, nor any others, bar the King from listing them as common Soldiers. And lastly, to deliver up his best Magazine, and the Strength of his capital City: To be obliged to pay a Foreign Army, which came over to enable his Subjects to drive him out of his Dominions, were very extraordinary Demands, and looked as if there was a Design to reduce him as low in his Honour, as in his Fortune. To forgive a Man who endeavoured to ruin me, is great Christian Charity; but to article away my Estate to him because he has injured me, is such a Mortification as no Religion obliges us to. This is in effect to betray our Innocence, and

K. James's
Grounds
for with-
drawing
himself

sign

sign away the Justice of our Cause, and own that we have deserved all that hard Usage which has been put upon us; so that it's easy to imagine what an unconquerable Aversion the Spirit of Princes must needs have to such an unnatural Penance. In short, when the Forts and Revenue were thus disposed of; when the Papists were to be disbanded, and the Protestants could not be trusted; when the Nation was under such general and violent Dissatisfactions; when the King, in case of a Rupture (which was not unlikely) had nothing upon the matter but his single Person to oppose against the Prince's Arms, and those of his own Subjects; when his mortal Enemies, and those were under the highest Forfeitures to his Majesty, were to sit Judges of his Crown and Dignity, if no farther; when Affairs were in this tempestuous condition, to say that a free and indifferent Parliament might be chosen, with relation to the King's Right, as well as the Peoples; and that his Majesty had no just visible Cause to apprehend himself in danger, is to outface the Sun, and to trample upon the Understandings, and almost upon the Senses of the whole Nation.

§. 6. 2. It's not improper to examine what doughty Reasons the Enquirer advances to prove, the King's coming from Feversham to Whitehall, to be no return to his People. The reason of his affirming this is apparent: he is sensible what singular Usage his Majesty met with, and therefore he would fain unking him, that it might the better suit with his Character. But pray what had the King done to incur a Forfeiture by his first Retirement? Had he quitted the Realm? If that was material, it cannot be alledged, for his Majesty was no farther off than the Coast of Kent. Did he refuse to take care of his People any longer, when the Lords went down to invite him to Whitehall? No, if he had, he would not have come back when he was at his Liberty. His return, after some assurances of fair Treatment, is a plain discovery of the Motives of his withdrawing; and that he came up with an Intention to govern. For, I believe, few People imagine that his Majesty would take such a Journey, only to have Dutch Guards clap'd upon him; to be hurried out of his Palace, and carried Prisoner down the Thames at Noon-day. But the Seals never appeared. What time was there for them in 24 Hours? Besides, there was an Order of Council, with his Majesty at the Head of it, for suppressing the Mobile, dated Decemb. 18. which was the next day after his Majesty's return. And when he was sent back to Rochester, he might plainly perceive his Government was at an end for the present: For the Tower was garison'd by Foreign Forces: The Lords published an Order by their own Authority, to oblige the Papists to depart the Town: The City made an Address to the Prince of Orange, which was a virtual acknowledgment of his Power; and Associations came up to that purpose out of the Country (Cambridgshire Address) not to omit that his Majesty was denied a small Sum of his own Gold to deal with; as if they had rather poor People should perish with Boils and Ulcers, than shew common Justice and Humanity to their King. From all these remarkable Circumstances, his Majesty might easily guess how they intended to dispose of him: For no Man in his senses, who has treated a Prince so contemptuously in his own Kingdom, will ever permit him either Power or Liberty, for fear he should remember his former Usage. From what has been said, it's most evident that his Majesty had all imaginable Reason to provide for his own Security in some other Country.

§. 7. And since his Majesty had sufficient Reasons to withdraw, these can be no Pretext for an Abdication: For we are to observe, That to abdicate an Office, always supposes the Consent of him who quits it. That this is the signification of the word Abdicatio, appears from Tully, Salust, and Livy; to which I shall only add the Learned Grotius, De Jure Belli, &c. Lib. 1. Cap. 4. Sect. 9. where he makes Abdicating the Government, and plainly Giving it up, to be Terms of the same importance.

§. 8. And to prevent unreasonable Cavils, he adds, That a Neglect, or Omission in the Administration of Government, is by no means to be interpreted a Renunciation of it. We have but two Instances with us, which look like an Abdication since the Conquest; which are in the Reigns of Edward II. and Richard II. both which were unjustly Deposed by their Subjects. However they did not renounce their Allegiance, and declare the Throne Void, till they had a formal Resignation under the Hands of both those unfortunate Princes. And hence it appears how unlucky our Enquirer is at citing the Laws: For, pag. 12. he tells us, That since these two Princes have been judged in Parliament for their Male-Administration, and since these Judgments have never been vacated by any subsequent Parliaments; these Proceedings are part of our Law. From hence I observe,

§. 9. 1. That our Author contradicts himself. For here he owns, that Male-Administration is sufficient to warrant Deposition and Resistance. But in his Enquiry into the Measures of Submission, &c. (for both these Papers are generally supposed to come from the same

same Hand) pag. 5. par. 14. he is much kinder to the Crown; for there he asserts, That it is not lawful to resist the King, upon any pretence of Ill Administration; and that nothing less than subverting the Fundamentals of Government will justify an Opposition. Now I am much mistaken, if Deposing of Kings is not Resisting them with a Witness. But besides his self-contradiction, the Case is not to his purpose: For,

§. 10. 1. These Parliaments were called in tumultuous times, when the Subjects were so hardy as to put their Kings under Confinement. Now, if it is against the Constitution of Parliaments to menace the Two Houses out of their Liberty of Voting freely, then certainly Kings ought not to be overawed by Armies and Prisons. These Parliaments therefore are very improper to make Precedents of.

§. 11. 2. These Princes were wrought upon so far, as to resign their Crowns, which each of them did, tho unwillingly: Let this Enquirer produce such a Resignation from his Majesty, and He says something.

§. 12. 3. He is much mistaken, in saying these Judgments, as he calls them, have not been vacated by subsequent Parliaments. For all those subsequent Parliaments which declare it Unlawful to take up Arms against the King, do by necessary implication condemn these Deposing Precedents; for it's impossible for Subjects to Depose their Princes without Resisting them.

§. 13. 4. By Act of Parliament the first of Edward IV. yet remaining at large upon the Parliament-Rolls, and for the greater part recited verbatim in the Pleadings in Bagget's Case, in the Year-Books (Trin. Term. 9 Edw. 4.) the Title of Edw. 4. by Descent and Inheritance is set forth very particularly; And that upon the Decease of Rich. 2. the Crown by Law, Custom, and Conscience, descended and belonged to Edmund Earl of March, under whom King Edw. 4. claimed.

§. 14. It is likewise further declar'd, That Hen. 4. against Law, Conscience, and Custom of the Realm of England, usurped upon the Crown and Lordship thereof; and Hen. 5. and Hen. 6. occupied the said Realm by Unrighteous Intrusion, and Usurpation, and no otherwise.

§. 15. And in 39 Hen. 6. Rot. Parl. when Richard Plantagenet, Duke of York, laid claim to the Crown, as belonging to him by right of Succession, it was

§. 16. 1. Objected in behalf of Hen. 6. That Hen. 4. took the Crown upon him as next Heir in Blood to Hen. 3. not as Conquerour.

§. 17. To this it was answered, That the pretence of Right as next Heir to Hen. 3. was false, and only made use of as a Cloke to shadow the violent Usurpations of Hen. 4.

§. 18. 2. It was objected against the Duke of York, That the Crown was by Act of Parliament entailed upon Hen. 4. and the Heirs of his Body, from whom King Hen. 6. did lineally descend. The which Act (say they, as it is in the Record) is of Authority to defeat any manner of Title. To which the Duke of York replied, That if Hen. 4. might have obtain'd and enjoyed the Crowns of England and France by Title of Inheritance, Descent, or Succession, he neither needed, nor would have desired, or made them to be granted to him in such wise, as they be by the said Act, the which takes no Place, nor is of any Force or Effect against him that is right Inheritor of the said Crowns; as it accordeth with God's Laws, and all Natural Laws. Which Claim and Answer of the Duke of York, is expressly acknowledged and recognized by this Parliament to be Good, True, Just, Lawful, and Sufficient; Cotton's Abridgment, fol. 665, 666.

§. 19. From these Recognitions it plainly follows,

1. That the Succession cannot be interrupted by an Act of Parliament, especially when the Royal Assent is given by a King de Facto, and not de Jure.

2. The Act of 1 Edw. 4. by declaring the Crown to descend upon Edmund Earl of March by the decease of Rich. 2. does evidently imply, that the said Richard was rightful King during his Life, and consequently, That his Deposition was Null, and Unlawful.

If it's demanded, Why his Majesty did not leave Seals and Commissioners to supply his Absence? This Question brings me to the second point; viz. to shew,

That the leaving sufficient Representatives was impracticable at this juncture: For,

1. When the Nation was so much embroiled, and the King's Interest reduced to such an unfortunate Ebb, it would have been very difficult, if not impossible, to have found Persons who would have undertaken such a dangerous Charge. That Man must have had a Resolution of an extraordinary Size, who would venture upon Representing a Prince who had been so much disrespected in his own Person; whose Authority had been set aside, and his Ambassador clapt up at Windsor, when he carried not only an inoffensive, but an obliging Letter. But granting such a Representation had been engaged in, the Commissions must either have extended to the Calling of Parliaments, or not; if not, they would neither

have been Satisfactory, nor absolutely Necessary. Not Satisfactory; for the want of a Parliament was that which was accounted the great grievance of the Nation, as appears from the Prince of Orange's Declaration; where he says expressly, That his Expedition is intended for no other Design, but to have a Free and Lawful Parliament assembled as soon as is possible. Declar. pag. 12.

§. 21. Secondly, This Expedient was not absolutely necessary; for the Administration of Justice might have proceeded regularly, without any such Deputation, by virtue of those Commissions which the Judges and Justices of the Peace had already from the King. This I shall prove,

§. 22. 1. From a parallel Instance; King Charles I. took a journey into Scotland in 41. during the Session of Parliament at Westminster; where, tho he appointed five Lords to sign Bills in his name, (The Continuation of Bak. Chron.) yet the Judges and Justices acted by virtue of their former Commissions, without any new Authority from any Representatives of his Majesty. Now Scotland is as much a distinct Kingdom from England, as France; and France as much his Majesty's Dominion as Scotland: And therefore if Commissions will hold in the King's Absence in one place, why not in the other?

§. 23. Secondly, The present Judges met in January last at Westminster, to dispatch some Business in order to keep the Term, but were forbidden to proceed by the Prince of Orange's Secretary: So that it is plain, it was the Opinion of these Reverend Judges, that their Commissions from his Majesty were still in Force. But in the next place,

§. 24. If his Majesty had deputed any Persons to represent him in Parliament, this Method would have been attended with new and insuperable difficulties. For,

§. 25. 1. If they had been limited, they would not have given satisfaction: For it being impossible to foresee the Business and Votes of a Parliament at a distance, if they had been restrain'd to certain points, in all probability they would have wanted Power to have passed all the Bills, and so their Deputation would not have answer'd the Desire of the Houses, and the greatest part of their Grievances might have been counted unredressed. If it's said, that the Parliament might have requested an Enlargement of their Commission from his Majesty: To this I answer, That the Convention may send to his Majesty for an Expedient now, if they please: and I hope they will; for I hear his Majesty has been so gracious as to send to them. But,

2. If these Commissioners were unlimited, it would be in their power to do a great many things prejudicial to the Crown. In such a case they might alter the Monarchy into a Commonwealth, or sign the deposing of his Majesty, if such Bills should happen to be offer'd. And tho there may be many Persons of Honour and Conscience enough to lodge such a Trust with; yet in regard his Majesty has been lately mistaken in some, of whose Fidelity he had so great Assurance, he has small Encouragement to be over-confiding for the future. Indeed no wise Prince will trust so vast a Concern as a Kingdom with the Honesty of another, especially when many of his Subjects are disaffected and in a ferment. So that nothing can be more unreasonable than to expect such Plenipotentiary and Absolute Commissioners.

§. 26. 3. I shall prove in the last place, That we have no grounds, either from the Laws of the Realm, or from those of Nature, to pronounce the Throne void, upon such a Retreat of a Prince, as we have before us.

1. To begin with the Laws of the Realm, which are either Acts of Parliament, or those we call Common Laws. Now there is no Statute so much as pretended, to support this Deserting Doctrine; and if there was, it's certain no such can be produc'd. Indeed a Prince must be very weary of governing, and void of the common Inclinations of Mankind, who would sign a Bill of this nature, and give his Subjects such a dangerous Advantage against himself and his Posterity.

Neither has this Opinion any better countenance from Common Law: For Common Law is nothing but antient Usage and immemorial Custom. Now Custom supposes Precedents and parallel Cases: But it's granted of all hands, That the Crown of England was never judg'd to be demised, by the withdrawing of the Prince, before now. And therefore it follows by undeniable Consequence, that this Opinion can have no Foundation in the Common Law, because there is not so much as one Ruled Case to prove it by. Nay, our Laws are not only silent in the maintenance of this Paradox, but against it, as I shall make good by two Precedents.

§. 27. 1. From the Case of Edward IV. who having not sufficient Force to encounter the Earl of Warwick, who had rais'd an Army for King Henry, was oblig'd to fly the Kingdom; but that he deputed any Persons to represent him, our Histories don't give us the

the least Intimation. Neither was it objected at his return, that he had abdicated the Government, by omitting to constitute a Regent. Neither is it material to object, that all Disputes of this nature were over-ruled by his victorious Army: For if it had been the known Law of this Realm, that a Prince had ipso facto forfeited his Crown by going beyond Sea, without leaving a Deputation, tho his Departure should happen to be involuntary: If this, I say, had been the Law of the Kingdom, it would not only have been a great advantage to Henry VI. and made the Nation ring of it (of which there is altum Silentium) but we may be well assur'd, King Edward would not have confer'd Honour, worn the Crown, and taken the State and Authority of King upon him till he had been re-established by Parliament. But that he did exercise all Acts of Sovereignty before the calling of a Parliament, appears from Daniel, Stow, and Baker: And when the Parliament was conven'd, those who had taken up Arms against him were found Guilty of Treason, and his Adherents were restor'd to Blood and Estate (Daniel). But there was no Confirmation or resettling of his Title, which is a Demonstration there was no need of it; and that this Abdicating Doctrine was perfectly unknown to that Age.

§. 28. 2. To come nearer our own Times, what Seals or Commissioners did Charles II. leave behind him after Worcester Fight? And yet, I believe, no Mortal ever urg'd this as an Argument against his Restauration. If it be answer'd, That there was much more danger in this case, than in that before us: To this I reply, That if we examine the matter more narrowly, we shall find the disparity very inconsiderable. For was there not a numerous Army of Foreigners and Subjects in the Field, against his present Majesty at his retiring? What Power or Authority, or so much as Liberty was there left him? And I am afraid that at that time he had fewer Friends to stand by him, than his Brother after that unfortunate Battel in 51.

§. 29. And since this pretended Dereliction has no manner of Protection from the Constitution, it has no other refuge but the Laws of Nature to fly to; but a very little Storming will serve to drive it from this last Retrenchment.

§. 30. For the Law of Nature is nothing but the reason of the thing. Now impartial Reason has always a regard to the Circumstances of Action, and makes Allowances for Surprise, for Straitness of time, for Resentment upon extraordinary provocation; and never takes advantage of an Omission, which may be fairly interpreted from any or all of these Causes. I mention this, not that the present Case needs any such Allowance, but to shew that the Law of Nature would admit it, if occasion requir'd. 'Tis true, written Laws, either thro the ambiguity of the Words, or the defectiveness of the Sense, are often abus'd by ill men, and wrested contrary to the design of the Legislators: But the Law of Nature is not ty'd up to the Alphabet, nor bound to determine by the Imperfections of former Ages. Therefore this Principle will give the Inquirer no just Advantages against his Majesty; for Equity has no querks in it, nor ever lies at catch. Reason is always just and generous; it never makes Misfortune an Accusation, nor judges in favour of violence. Indeed, what can be more unrighteous (tho the Case was private and inferior) than that any one should suffer for being injur'd, and be bar'd his Right for the faults of others? If a man should forfeit his House to those who set it on fire, only because he quitted it without giving some formal Directions to the Servants; and be oblig'd to lose his Estate, for endeavouring to preserve his Life; I believe it would be thought an incomprehensible sort of Justice. If to proceed in this manner be not to establish Wickedness by a Law, I have done. If Princes may be thus roughly treated, their Birth is a misfortune to them; and, we may say, they are crown'd rather for Sacrifice than Empire. At this rate, the People must e'en govern themselves, for the Throne will be a place of too much danger to sit on any longer. We have an excellent Church, and we do well to take due care to continue its Establishment; but to dispossess our Prince upon this score, has as little Divinity as Law in it. To endeavour to preserve our Religion by such Methods, will make it more fatal to us in the event, than Atheism it self. 'Tis a mistake to think the World was made for none but Protestants; and if Dominion was founded in Grace, I am afraid our share would not be great in the Division.

§. 31. If it is objected, That his Majesty's not sending to his People upon his Removal, is an Argument that he intended to govern them no longer: To this I answer,

1. That I am pretty well assur'd, that no man, who makes this Objection, believes the Truth of it; and therefore I might safely leave it to his own Conscience to confute him.

2. His Majesty was scarcely landed in France before the Administration was confer'd upon the Prince of Orange; which Action might very well discourage his Majesty from sending any Messages so soon as he intended: but since, it's known, his Majesty has sent Letters (if not to the Privy Council, as some affirm, yet) to the Convention.

§. 33. Thirdly, Those who were the occasion of his Majesty's departure should (one would think) have waited on him, and invited him back. "For without question, the
 "injuring Person ought to make the first step towards an Accommodation, especially when
 "the wrong is done to his own Prince. Now whether his Majesty has been well us'd in
 this Revolution or not, I leave the World to judg now, but God will do it after-
 wards.

Thus, S I R, I have ventur'd to give you my Thoughts upon this Subject; and am

Affectionately Yours.

A N A N S W E R T O

The D E S E R T I O N Discus'd.

HAVING thus as truly and as shortly as I can, from the Papers I have collected, stated the matter of Fact, without which it is impossible to pass any Judgment upon the Merits of the Case: I come now in the next place to consider the small Piece which has necessitated me to take all this pains.

The Author of it is my Acquaintance, and a Person for whom I have a great Esteem, both on the account of his Profession, and of his personal Worth, Learning and Sobriety; so that I cannot believe he had any ill design either in the writing or publishing of it: his Zeal for the Church of England's Loyalty, and the difficulty and unusualness of the present Case, having been the Occasions, if not the Causes of his mistake; and therefore I will endeavour to shew him and the World his Errour, with as much Candor and Sweetness as he himself can wish, because I have the same design for the main that he had, *viz.* the Honour of the Church of England, and the Safety of Government, and especially our Monarchy.

Objections
answer'd.

It begins thus: *Sir, I don't wonder to find a person of your sense and integrity so much surprized at the report of the Throne's being declared Vacant, by the Lower House of the Convention: for how (say you) can the Seat of the Government be empty, whilst the King, who all grant had an unquestionable Title, is still living, and his absence forced and involuntary? I thought our Laws, as well as our Religion, had been against the deposing Doctrine; therefore I desire you would expound this State-Riddle to me, and give me the Grounds of this late extraordinary Revolution. Sect. 1.* In answer to which, he tells his Country-Gentleman, that the Gentlemen of the Lower House of Convention lay the main stress of their Opinion upon his Majesty's withdrawing himself, &c.

Now, that the King was *de facto* gone, is not to be disputed: but the Question is, Whether his absence was truly forced and involuntary, or no; and by whom he was forced? Our Author is for the Affirmative, and afterwards proposeth his Reasons, which I shall examine: And this Question being well stated, the business of the deposing Doctrine will appear nothing to the purpose.

Now before our Author could regularly enter upon this Question, he ought first to have considered what the Causes of this Force was, and what had been done by the King on his part; and then have come to the other, Whether the absenting himself was a Fault, or a Misfortune?

Question
stated.

So that to begin at the right end of the Question, we must enquire, What were the Causes of this Revolution? Who were the Parties concern'd? How things were managed on both sides? And then come in the last place to the Question he begins with.

Now

Now, Sir, are the Prince of Orange's Declarations, and the Bishops Ten Proposals, as to the things complained of, true or false? Are they justifiable or not, by the Laws of *England*? For if the King had done nothing which he could not fairly justify, his Title was unquestionable; and therefore he ought not to have been disturbed either by his own Subjects, or his Neighbours, during his Life. But then, Sir, I think he had no right to govern us as he did; and he had as little reason to expect (whatever we did) that his Neighbours would sit still, and suffer him to do what he pleased to them and us, to the Ruin of *Europe*.

The King of England, saith the Prince of Orange in his Declaration, bath given the greatest credit to those Counsellors who have overturned the Religion, Laws, and Liberties of his Realms; and subjected them in all things relating to their Consciences, Liberties, and Properties, to Arbitrary Government; and that not only by secret and indirect ways, but in open and undisguised manner, §. 2. Pag. 10. §. 17. he informs us, That both he and his dearest and most entirely beloved Consort the Princess, have endeavoured to signify in terms full of Respect to the King, the just and deep regret which all these Proceedings have given us, &c. But those evil Counsellors have put such ill Constructions on these our good Intentions, that they have endeavoured to alienate the King more and more from us, as if we had designed to disturb the Peace and Happiness of the Kingdom. Sect. 19. To crown all, there are great and violent presumptions inducing us to believe, that these evil Counsellors, in order to the carrying on their ill Designs, and to the gaining to themselves the more time for the effecting of them, for the encouraging of their Complices, and for the discouraging of all good Subjects, (They) have published, That the Queen bath brought forth a Son, tho there have appear'd, both during the Queen's pretended Bigness, and in the manner in which the Birth was managed, so many just and visible grounds of suspicion, that not only we our selves, but all the good Subjects of those Kingdoms, do vehemently suspect, that the pretended Prince of Wales was not born by the Queen. And it is notoriously known to all the World, that many both doubted of the Queen's Bigness, and of the Birth of the Child, and yet there was not any one thing done to satisfy them, or to put an end to their Doubts.

Things being in this state, he resolved to go over to England, (Sect. 21.) and to carry with him sufficient Force to defend him from the Violence of those evil Counsellors. And then he declares, That this Expedition was intended for no other design, but to have a Free and Lawful Parliament assembled as soon as is possible. (Sect. 25.) To the end that all the Violences and Disorders which have overturned the whole Constitution of the English Government, may be fully redressed in a Free and Legal Parliament; to which he would also refer the Enquiry into the Birth of the pretended Prince of Wales, and all things relating to it, and to the right of Succession.

Now if all this is true (which no English man can deny) then had the Prince of Orange the justest Cause that ever man had to do what he did; and the King of England was bound in Justice to have summoned a Parliament, and to have refer'd the things in question to them, there being no other competent Judge on Earth of the things in dispute: but if he would not suffer a Parliament to meet, then the Sword must determine the Question between them; for they were both Sovereign Princes, and had no Superiour over them to decide it. The King accordingly refer'd it to the Sword; for he refused to the last to suffer a Parliament to meet till the Invasion was over; and the Prince had no reason to take his word for it.

The Protestants of England had no reason to fight against this Prince, who came to right their Cause, and offered to refer all to a Parliament of English Nobility and Gentry; and the Papists alone were not able to resist the Prince's Army, especially after many of the King's Army were gone over to the Prince: So that the King was at last forced to call a Parliament in the manner I have set forth, and he promised both the Nation and the Prince the Parliament should meet and act freely; but before this was possible to be brought about, without any cause given or alledged, he disbanded his Army, sent away the Queen, the Child, and the Seals, and then followed them himself, leaving the Nation in Anarchy and Confusion. Now I will refer this to the World, whether this Absence was not voluntary, unforced, and criminal, after he had thus passed his Word?

For supposing he had staid on the Prince's Terms, and the Parliament had met, no Act could have passed without his own consent; and if any thing had been required that had not been just and legal, if then he had withdrawn, his case would have been more justifiable, and perhaps he should have found enough to have defended it, and so needed not to have withdrawn.

P. of O.
had reason
to come into
England
to deliver
it from
Popery and
Slavery.

The Story of the *French League*, and the *Prince of Wales*, are not passed so over (tho they are postponed) but we may hear more of them in due time: tho when all is done, there will be no reason to expect that all the Prate of this populous Town should be proved to be true; it will be sufficient if his now Majesty justify his own Publick Declaration, which I believe no man doubts but he can, and has done, the Three Estates having in their Declaration subscribed to the truth of all the main parts of his.

The King being thus gone, some way or other must be taken to bring us again to a Settlement, and that of a Convention of the Three Estates was taken, as least liable to Exception and Mistake: but then he tells us, *Secl. 2.* That the Necessity alledged for their Justification, is either of their own making, or of their own submitting to, which is the same thing; and therefore ought not to be pleaded in justification of their Proceedings. Now this is not true: The King would never have left his People, if he had not first lost their Hearts by the things charged upon his Counsellors; nor then neither, if he had not first resolved never to do them right against those Counsellors, because he had reason to believe this would have satisfied them: so that his late Majesty was not driven out of his Dominions by his Enemies (as he stiled them) but by his pretended Friends, who put him upon doing ill things, and then would not suffer him to redress them.

Well, but *If he had been invited back upon Honourable Terms, they needed not have had recourse to these singular Methods.*

Why, how does he know that? The King had Honourable Terms offer'd him before he went, and they would not stop him from going; and if they had sent more Honourable Terms after him, who can tell whether he would have accepted, or have stood to them? He had passed his Word before, That a Parliament should meet, yet he burnt the Writs and withdrew.

Well, but however our Author is resolved the late King's withdrawing himself, is no resigning of his Crown, or discharging of his Subjects of their Allegiance. In order to which he undertakes to shew, That his late Majesty before his withdrawing, had sufficient Grounds to make him apprehensive of danger, and therefore it cannot be call'd an Abdication. 2. That the leaving any Representative behind him, was impracticable at this juncture. But there are two other things which he has not mentioned; the first of which is, Who gave the occasion of these Dangers which he apprehended? And the second, Whether he had no other way to avoid those Dangers, but by withdrawing? Now it is plain that the ill courses taken under his Government had brought upon him those Dangers, and that if he would have suffered a Parliament to meet, he needed not to have withdrawn; and consequently his going away, rather than submitting the things in dispute to a Parliament, was a voluntary Abdication.

K. J's going away concerns Scotland and Ireland.

Secl. 4. Our Author has a scruple, whether the King's going away signifies any thing to Scotland and Ireland. Now all this is no better than Banter, for when he left England, he left them too, tho the one was for some time, and the other still is under the Regular Administration of the Lord Lieutenant, as he tells us; but those that have since come from thence, assure us, there is nothing Regular in his Administration, but the British Protestants are treated as Enemies by this Minister of his; so that Ireland being an Appendage of England, and thus treating our Brethren, ought by us to be taken for a Rebel and an Enemy, let the pretence be what it will; their Loyalty to the late King not excusing, but aggravating their Injuries to his Countrymen, who have done nothing to deserve this usage, but it is to be hoped will find hands enough to revenge it in due time.

Our Author in the 5th Section is to prove, the late King had sufficient grounds, &c. omitting his Rhetorick, *Had not his Majesty (saith he) great Reason to retire to secure his Person and Honour, at his first withdrawing from Whitehall? When he had met with so many unfortunate disappointments, with so many surprizing and unparallel'd Accidents? &c.* — I say no, he ought to have considered what was the Cause of all these Misfortunes, and to have applied himself with so much the more Industry to the quieting of his People, which the sitting of the Parliament would in all probability have effected. But what could he promise himself by withdrawing, but the bare saving of his Life and Liberty, with the loss of his Crown? Now his Life and Liberty were in no danger, as is plain; for after, he was brought back a Prisoner, and suffered to go away again without any hinderance. There are many indiscreet things said in this Paragraph, which I could easily expose, but I would not make this Answer too long, nor exasperate any body against the Author, and therefore I will pass them over.

To be obliged (saith he) to pay a foreign Army which came over to enable his Subjects to drive him out of his Dominions, looked as if there was a design to reduce him as low in his Honour, as in his Fortune. The Prince saith in his Declaration, Sect. 21. That he intended nothing but to have a Free and Lawful Parliament assembled as soon as was possible. And this might have been done without driving the King out of his Kingdom; and it is very difficult to imagine how he could at first propose more to himself: nor would it have been any diminution of the King's Honour to have paid the Dutch Army a few Weeks or Months, till things could have been settled.

When the Forts and Revenues were thus disposed of, when the Papists were to be disbanded, and the Protestants could not be trusted; when the Nation was under such violent and general dissatisfactions; when the King, in case of a rupture (which was not unlikely) had nothing but his single Person to oppose against the Prince's Arms, and those of his own Subjects — Well, what then? Why, it was time to be gone. No, Sir, it was time to be better advised than he had been, by those that had brought him into this deplorable State. It was time to despair of ever being able to set up Popery and an Arbitrary Power in England; to have reflected on the Breach of his former Promises and Oaths, which had so exasperated his Subjects against him, but by other measures might very easily have been again appeased, and deserved after all rather to be trusted, than those Popish Soldiers he was so fond of to his Ruin, because he had formerly had sufficient Experience of their Loyalty, till he had made it impossible for them to serve him, without destroying their Religion, and their Civil Liberties.

When his Mortal Enemies, and those who were under the highest Forfeitures to his Majesty, were to sit Judges of his Crown and Dignity, if no further, &c. The power of an heated Imagination! Why after all, these were the three Estates of England whom he thus blackens, or a part of them, or rather the Church of England Nobility and Gentry, the same men that were chosen, and for the most part must be chosen again, if we were to chuse to morrow as to the Lower House; and as to the Upper, the Bishops and the Peers always are and must be the same: Nor were they to sit Judges of his Crown and Dignity (for they must have sworn Allegiance to him again at their Meeting) much less of his Life and Liberty; but only of his former Actions, his Ministers, and of the Birth of the pretended Prince of Wales. And he had Reason to have expected great Candor from them, having had so great Experience of them before. When a Gentleman of the Church of England could thus harangue it against his own Party and Interest, we need not wonder if that Unfortunate Prince found some Jesuits about him, who would perswade him rather to abandon his Crown, Kingdom and People, than the Glorious design of forcing England once more to submit to the Yoke of Rome.

Section 6. Our Author is at a loss to find the Reason, why his coming from *Fever-sham* to *White-hall* is not allowed to be a return to his People: now if he please to look into the former History, he will find it was not voluntary, but forced (tho he was not then known) and in all probability the fear continued upon him when the force was removed; for then he saw he could not go away without the Prince's leave, and that was the true reason of his inviting the Prince to London, when he could not keep him out if he would. Pray what had the King done to incur a forfeiture by his first retirement, had he quitted the Realm? Yes, he had, and the Government too, and necessitated his own Menial Servants to submit to the Prince, by the famous Address made at *Guild-hall* the 11th of Decemb. So that the Prince was now actually invested with the Government, the whole Nation having submitted to him; and it was at his choice whether he would treat him as a King now; nor had he any great reason to do so, considering how lately he had broke his word to him and the Nation.

His return, after some assurance of fair Treatment, is a plain Discovery of the Motives of his withdrawing, and of his intention to govern. Had it been purely Voluntary, I would have allowed the Consequence: but when he did, and said all that he could to have got out of the hands of the *Fever-sham* men without discovering himself, and was at last brought up a Prisoner, and discovered by those who knew him after he was landed; for him, after all this to return to *White-hall*, is no Argument of his intention to stay and govern us. But admit it were, What proof did he give that he would change his Measures? Was not *White-hall* crouded with *Irish* and *English Roman Catholicks* as before? Was there any one step towards the satisfying of his Protestant Subjects of his better Intentions towards them? The only Order of Council he made after his return, was apparently in favour of the Papists; so that by that we may guess what would have followed. The rest of
the

Objections
answer'd.

K. J's re-
turning
from Fe-
versham
was no re-
turn to the
Govern-
ment.

the Paragraph is either mis-timed, mistaken, or nothing to the purpose; for I will grant him, his late Majesty had some cause, as well as free leave, to withdraw the second time.

So that after all, I conclude just contrary to my Author, The first withdrawing was Causeless, and therefore Voluntary; and therefore in his own Notion an *Abdication*.

From the 8th Section to the 20th Section, is spent in a Controversy with the Author of the *Present State of Affairs*, about the Abdication or Deposing of *Richard II.* and *Edward II.* And as I am no Friend to the Deposing Doctrine in general, nor have any good Opinion of those Actions in particular, nor those Books by me now which are absolutely necessary to the discussing those Questions, I shall leave the aforesaid Author to make his own Defence, if he please, and go to his 20th Section, where he proposeth this Question;

If it's demanded, *Why his Majesty did not leave Seals and Commissioners to supply his Absence? It was impracticable at this Juncture.*

No Com-
missioners
left to go-
vern in K.
J's absence.

Now if this Answer is true; then it follows, That it was impossible his late Majesty should reign any longer: for if he would not govern us himself, and either would not or could not find any other Person or Persons to supply his place, and this was brought upon him by his own Act, then was his Government and Right at an end: Government supposeth a Governour and Persons governed; if one of them fail, the other fails too, and the Blame falls on the Party that gives the Cause.

Nor was it possible for us to continue in a state of Anarchy, however it was brought upon us; but after he was gone, it was absolutely necessary that we should set up another in his place, or run into Confusion and a state of War. And when we had once taken this care for our selves, considering how ill we had been used, it was very probable we should not be very willing to return again under his power: and therefore his late Majesty ought to have continued his Post, what Difficulties soever he had struggled with, even to the hazard of his Life and Liberty; or if he abandon'd his People, to have expected that they would take care to provide for themselves as they did, which was to put his Antagonist in the actual possession of the Government; for we could then much less than he, find any other Person or Persons to set up. But let us hear his Reasons.

K. James
resolved to
go away at
any rate.

When the Nation was so much embroiled, and the King's Interest reduced to such an unfortunate Ebb; it would have been very difficult, if not impossible, to have found Persons who would have undertaken such a dangerous Charge. Now this must be understood of his first withdrawing, tho he confounds it with the second; for then I will grant it was, not only difficult, but impossible. But when he went first from *Whitehall*, doubtless this was well considered, and it would put an end to all our Disputes, if we knew the true Reasons which were then alledged for his going. The three Lords who were sent to treat with the Prince, are said to have returned his Answer the Evening before the King went away, by an Express; but it is notorious he resolved to go before the Queen went; and the next *Paris Gazette* told us he was expected every Tide in *France*, so that it was no Secret there: So that whatsoever Answer the Prince made, he was resolved to be gone. Yet he had promised the Nation and the Prince there should be a *Free Parliament*. Now if the Nation was already so imbroided, and the King's Interest at so low an Ebb, his going away must needs reduce his Kingdoms and Affairs into a much worse Estate. The result of all which is, That having well considered all things, he at last resolved, rather than suffer a Parliament to meet, and determine the Differences between him and his people, and the Prince of *Orange*, he would abandon his people, when no body durst undertake to supply his place by reason of the Difficulties; and this is a real and true Abdication. For I will suppose after all, That it was absolutely necessary that a Parliament should meet, and that we must have been absolutely ruined one way or other if one had not met; for if *James the II^d* could have resettled himself without one then, it is past all Controversy, he would after that never have suffered one to meet and act freely, who would abandon his Kingdom, rather than suffer a Parliament in this Extremity, when he had no other way to save himself. And after he was gone, nothing but a Meeting of the three Estates could have sufficient Authority to re-establish our shattered Government, and settle the Nation.

But (saith my Author) granting such a Representation had been engaged in, The Commissions must either have extended to the calling of a Parliament, or not; if not, they

they would neither have been satisfactory, nor absolutely necessary: Not satisfactory, for the want of a Parliament was that which was accounted the great Grievance of the Nation, as appears from the Prince of Orange's Declaration, where he says expressly, That his Expedition is intended for no other Design, but to have a Free and Lawful Parliament assembled as soon as was possible.

Now here our Gentleman leaves us in the dark, without telling us what he thought. But, §. 25. he reassumes it, and shews, *That if the Commissioners were limited, the greatest part of the Grievances might have been counted unredress'd; if unlimited, it would be in their power to do a great many things prejudicial to the Crown.—And his Majesty having been lately mistaken in some, of whose Fidelity he had had so great an assurance, he has small encouragement to be over-confiding for the future: That is, it is fit he should trust no body so far.* Now I think I have sufficiently proved, that we were in such Circumstances, that if we had not had a Parliament, we had been certainly ruin'd; and therefore any Deputation, without a Commission to hold a Parliament, would have signified nothing; and a Commission that had not extended to all those Grievances which the majority of the Three Estates should have judged necessary to be redress'd, would have signified as little. So that whatever the Difficulties or Distrusts of the King were at that time, he saw he must yield the Point, after he had struggled as long as was possible: And now when he had passed his Word, it was too late to revoke it; and therefore there was that necessity added to the other of holding one. Now, Sir, if we had yielded this Point, there had been an end of the English Liberties for ever: If he had yielded it, what Inconvenience would have followed, which did not certainly attend his Desertion of us? But if he had staid, he might in all probability have saved his main Stake, and have regained the Affections of his People again, and so have ended his days in Honour and Peace in his own Palace, and among his good Subjects: At least there was so great a probability of all this, that no Man but He would have taken the other way; nor He neither, if he had suffered this Question to have been debated in his Privy-Council, and had heard what all sides could have said for it.

No Remedy
but a Par-
liament.

Sec't. 21. He tells us, *This Expedient (the appointing of a Representative) was not absolutely necessary; for the administration of Justice might have proceeded regularly without any such Deputation, by virtue of those Commissions which the Judges and Justices of the Peace had already from the King.* So that here was no need of Seals or Commissioners, tho the Nation was embroiled to that height, that no body durst have undertaken this dangerous Charge, as he tells us the Section before, and the King was gone. Thus Men lose themselves, when they meddle with what they do not understand. The Tumults which arose that very day in London, and spread themselves (with the News of the King's withdrawing) all over the Nation, do sufficiently confute this airy Notion. And at this time both the Judges and Justices of the Peace were at almost as low an Ebb of Authority and Credit with the People, as their Master, by reason of the many unqualified Men who had been employed, and the things they had done contrary to Law. He could not but know how the late Lord Chancellor, Sir Roger L'Estrange, and many others, were treated by the people; and yet he tells us, *The Administration of Justice might have proceeded regularly: Yes, we might have lived without any King, Magistrates, or Execution of Justice at all, if all Men would have been quiet, and minded their own Business.*

Sec't. 22. We have a Whimsy of a Journey of Charles the First into Scotland, *K.Ch.I. going into Scotland, no parallel with K.J's Desertion,* and that five Lords were appointed by him to sign Bills in his Name, but the Judges and Justices acted by virtue of their former Commissions, without any new Authority from these Representatives of his Majesty. Now, to what end is all this? Why, to prove, That Commissions will hold, tho the King is absent. Who ever doubted this? for without this had been allowed, he could have had no Representative. But I thought he would have given us an Instance of a King that had stole out of his Kingdom, and had left no body to have supply'd his place (which Charles I. did) and yet, after he was gone no body knew whither, to return no body knew when, his people had been governed by his Judges and Justices of the Peace; and then this should have been an Example for England.

Henry the Third of France was first King of Poland; and hearing of his Brother's Death, stole away without leaving any Deputy? But then the Kingdom of Poland call'd a Dyet, and judg'd it an Abdication, and proceeded to the Election of a new King as if he had been dead. The Instances of this nature must be ve-

ry rare; but who ever heard of a Prince that withdrew himself from his People, or was forced away, and yet no body was put in his place? Certainly James the Second foresaw what would follow, and in some sort consented to it, rather than to the sitting of a Parliament.

Sect. 26. He undertakes to prove in the last place, *That we have no Grounds, either from the Laws of the Realm, or from those of Nature, to pronounce the Throne void, upon such a Retreat of a Prince as we have before us.* This is bold, and very peremptory, considering there had then a Vote passed for it in the Lower House of Convention, and that this Gentleman is a Clergyman, and knows very little of the Laws of England.

There is (said he) no Statute so much as pretended to support this deserting Doctrine. He might have better called it, This Right of providing for our selves, when we had no body to take care of us. There is no Statute to enable us to meet and chuse a new King, if the whole Royal Line should happen to be extinct; yet this may very probably happen at one time or another. What! shall we therefore continue in a state of Anarchy for ever?

The Case
new.

Neither has it any Foundation in Common Law; for Common Law is nothing but Antient Usage, and Immemorial Custom. Now Custom supposeth Precedents and parallel Cases; but it is granted on all hands, that the Crown of England was never judged to be demised by the withdrawing of the Prince before. Such a withdrawing as this, I believe, never happened in England before, nor ever will again; and it is stupendously wonderful that it happened now. There was nothing asked of the King, but what he ought to have granted freely; (*viz.*) the Calling of a Free and Lawful Parliament, which he said he was resolved to have had, tho the Prince had not entred England; and so soon as he was retired, he would hold such a Parliament. Then he came further, and promised to hold a Parliament Jan. 15. and sent three Noblemen to the Prince to adjust the Preliminaries, who had as good an Answer as they could expect: But before it was possible the late King should know what it would be, whilst all Men rested secure under the expectation of that Meeting; the King, for Reasons wholly unknown to us, burns the Writs, sends away the Seals, withdraws himself, and disbands his Army. Now if he can find a Case parallel to this in the History of the whole World, *Erit mihi Magnus Apollo.*

The Case of
Edw. IV.

Nay, saith he, our Laws are not only silent in the maintenance of this Paradox, but against it, as I shall make good by two Instances. The first of these is that of Edward the Fourth, who was forced to fly, without leaving any Representative; yet returned, and regained the Crown. King Edward was surprized, under pretence of a Treaty, and sent Prisoner to Warwick-Castle, and made his escape out of Custody. After this, Henry the Sixth was again crowned, and Edward the Fourth declared a Traytor in Parliament, and an Usurper of the Crown, and all his Estate confiscated; and the like Judgment passed against all his Adherents, and all the Statutes made by him were revoked. After this Edward the Fourth returned into England, and pretended to lay aside all Claim to the Crown, and only to seek the Recovery of his Lands which belonged to him as Duke of York, which he confirmed to the Men of York by his Oath. Being thus received in the North, he won over his Brother Clarence, and hasted to London, and there he took poor King Henry his Prisoner again, and in a Battel slew the Earl of Warwick, who came to rescue King Henry; and in another Battel defeated Margaret the Wife of Henry the Sixth; took and in cold Blood murdered Prince Edward, the eldest Son of Henry the Sixth, and not long after Henry the Sixth himself.

Case of
Henry VI.

Now what saith our Letter-man to all this? If it had been a known Law of England, that a Prince had ipso facto forfeited his Crown by going beyond Sea, without leaving a Deputation, tho his departure should happen to be involuntary, it would have been a great Advantage to Henry the Sixth. Yes, doubtless, his departure did facilitate the Re-crowning of Henry the Sixth; for he was not so well beloved as Edward the Fourth was: And it is apparent the Nation swore Allegiance to Henry the Sixth *de novo* for that very cause; for no body then questioned but that Edward's was the better Title, and the Crown was entailed to Henry and his Heirs Male; and for want of such Issue, to George Duke of Clarence, and his Heirs: and when Edward the Fourth after this came up to London, every body forsook Henry the Sixth, and he was re-taken and imprisoned without any resistance. Now, after two Victories, what wonder was it if Edward the Fourth exercised all Acts of Sovereignty (and Tyranny too) before the Calling of a Parliament, and in it restor'd all his own Party, and attainted King Henry's? He might as well have proved it

it lawful to stab and murder Kings and Princes, and to swear and forswear from the same Story.

His next Instance is the Flight of *Charles* the Second from *Worcester*-fight: Which was nothing to the purpose neither; for that Prince had done nothing to forfeit his Right, and was ready to have done any thing to assure his Subjects of theirs: But *James* the Second had, as is confessed on all hands, violated the Rights of his Subjects, above any Prince that ever swayed this Scepter; and would rather throw up the Government, than suffer a Parliament to meet to redress their Grievances: And this was the only Reason why he, as our Author saith, *had fewer Friends to stand by him, than his Brother had after the unfortunate Battel of Worcester in 1651.*

Case of
Charles II.
after Wor-
cester fight.

The true Fountain of the Law, that is to determine this difficult and rare Case, is our Fundamental Constitution, and the general Laws and Practice of other Nations in the like or similar Instances. And as there is an Analogy of Faith in Theology, so there is an Analogy here too, for those who are sufficiently qualified to judge by; but then they must be no young smatterers in Law, History, or State Politicks. Nor was this Question determined by such, but by the whole three Estates, upon Reasons altogether unknown (perhaps) to this Gentleman, but which may be sufficient to satisfy all the Princes in Christendom when they shall be laid before them. In the mean time, the Judgment of the States is conclusive to us; and tho we know not all the Reasons they might have, yet we now know enough to acquiesce and be satisfied. But then this has been so very well laid down, and pursued by the Author of the *Case of Allegiance* in our present Circumstances considered, in a Letter from a Minister in the City, to a Minister in the Country; that I will rather refer my Reader to that Book, than transcribe it to no purpose.

Settlement
of the Go-
vernment
agreeable
to Law and
Justice.

In the 29th Section he tells us, the last refuge of the Case of *Dereliction*, are the Laws of Nature; but a very little storming will serve to drive it from this last Retrenchment. Bold, and like an Hero, considering whom he engageth with.

For (saith he) the Law of Nature is nothing but the reason of the thing; Very true. Now impartial Reason has always a regard to the Circumstances of Action, and makes allowances for surprize, for straitness of time, for resentment upon extraordinary Provocation, and never takes Advantage of an Omission which may be fairly interpreted, from any or all of these Causes. Now tho he saith, the present case needs not any such Allowances: Yet I will be so fair as to give all these Advantages, and put it upon this fair Issue.

1. Was not the whole *English* Constitution acknowledged by the late King to be so much in his favour, that he said in his first Speech to the Council, *I have been reported a Man for Arbitrary Power; but that is not the first Story that has been made of me. And I shall make it my endeavour to preserve this Government both in Church and State, as it is now by Law established. I know the Principles of the Church of England are for Monarchy, and the Members of it have shewed themselves good and loyal Subjects; therefore I shall always take care to defend and support it: I know too, that the Laws of England are sufficient to make the King as great a Monarch as I can wish; and as I shall never depart from the just Rights and Prerogatives of the Crown, so I shall never invade any Man's Property.* Yet after all this, look upon nine of the ten Proposals made by the Bishops; look upon the Prince of Orange's Declaration; look upon the Declaration made by the Lords and Commons the 12th of February last past, and you will soon be satisfied in how many Instances he had violated the Laws and Liberties of this Kingdom, and sought the Ruin and utter Subversion of this Loyal, Monarchical Church of England. This Conduct lasted to the very moment they knew the *Dutch* Preparations were made against him.

2. After this, what could be done or said that was omitted, to obtain a Redress in Parliament? Was there any other way to secure us than that of a Parliament? Was this granted before it became impossible to hinder it? And when all mens Eyes were upon this, did he not then deliberately resolve to defeat our Expectations, and to withdraw and leave us in a state of Anarchy and Confusion? Here was no *Surprize*, *straitness of Time*, no just *Resentment*, except he were angry that we would not contribute to our own ruin and enslaving; that we would not cut up our Laws, Liberties and Religion with our Swords, and sacrifice our Deliverers to our Oppressors.

Designs of
K. J. to o-
verthrow
the Consti-
tution in
Church and
State.

3. Nor were these Violations only personal Injuries, but they extended to the whole Church and Kingdom, and to the whole Constitution, and every Branch of it; nor were they such as would have ended with his late Majesty's Life, but were to have been intailed upon us and upon our Posterity for ever; for the Queen might have brought forth every Year, at that rate the pretended Prince of Wales his Birth is proved.

We have (saith he) an excellent Church, and we do well to take due care to continue its Establishment; but to dispossess our Prince upon this score, has as little Divinity as Law in it. I may answer this in the words of the Apostle, But if the unbelieving depart, let him depart. A Brother or a Sister is not under bondage in such a case: but God hath called us to peace. We did not dispossess our Prince, but he deserted us, because we would not give up the legal Establishment of our Church, and our Civil Liberties to boot.

To endeavour to preserve our Religion by such Methods, will make it more fatal to us in the event, than Atheism it self.

That is, it were better to renounce the whole Apostles Creed, and every Article of it, than to endeavour to preserve our Religion by a defection from a persecuting Prince. In truth this is Loyalty with a Vengeance.

Papists pre-
tend to go-
vern the
World.

'Tis a mistake to think the World was made for none but Protestants; and if Dominion was founded in Grace, I am afraid our share would not be great in the Division. As to the first of these, it is a silly insinuation, and concludes nothing. For tho it be true the World was not made for any one sort of Men, yet I may assert that part of it which is fallen to my Lot, against the Invasion of the Jesuits and Roman Catholicks, who pretend that the whole World ought to be subject to the Vicar of Jesus Christ, St. Peter's Successor, and upon that score will suffer nobody to live in peace by them, who will not be subject to that old Gentleman and his Emisseries. And if Dominion were founded in Grace, we of the Protestant Religion should be able to maintain our possession of what we have, against any Religion that should pretend to out us, if we were to be tried by any other Christian Judge but the infallible Gentleman at Rome. When I first read these two Passages, I concluded the Piece was written by a R. C. but some of our own Brethren can sometimes speak as ill things of us, as the worst of our Enemies; so violent are the transports of a Friend when thoroughly incensed.

If it be objected, That his Majesty not sending to his People upon his removal, is an Argument that he intended to govern them no longer.

K. J. ra-
ther chose
to go into
France,
than govern
by Law in
England.

First, *He answers, that the Objector doth not believe it. In truth, if any body did ever think, or say, that he was weary of reigning, or quitted England with a design to trouble himself no more about it; he must be very ignorant of the Temper of the late King, and of the management of Affairs in the last Scene of his Government. We were not so happy! he was resolved to be our Master, when he was most resolutely bent not to do us that Justice which we had so much right to; his going to France, added to that Expression in his Letter from Rochester, Tho I have ventured my Life very frankly on several occasions for the Good and Honour of my Country, and am as free to do it again (and which I hope I shall yet do, as old as I am, to redeem it from the Slavery it is like to fall under) yet I think it not convenient to expose my self to be secured, as not to be at liberty to effect it; and for that reason do withdraw my self: These shew clearly he went away with a Resolution to return and make a Conquest of us, and then we may conjecture at what rate we shall be redeemed from Slavery.*

Secondly, *That his Majesty was scarcely landed in * France, before the Administration was conferred upon the Prince of Orange, which Action might very well discourage his Majesty from sending any Message so soon as he intended: But since it is known his Majesty has sent Letters (if not to the Privy-Council, as some affirm, yet) to the Convention.*

There was, in truth, a Letter to the Privy-Council, two to the Convention of England, which I am informed were sealed up in Covers, and never opened: but there has since been a pretended Copy of it printed and spread about the Town; and another Letter has since that been sent to the Convention of

* The Administration of Affairs was, in truth, conferred on the Prince of Orange, the very day the King left London, by the Declaration made at Guildhall: And all that followed till the 12th of February, was but a confirming that first Act, by after-Acts.

Scotland; and they all of them, as far as is known, confirm his Resolution of attacking England.

Thirdly, *They that were the occasion of his Majesty's departure, should (one would think) have waited upon him, and invited him back. For without question, the injuring Person ought to make the first step towards an Accommodation, especially when Wrong is done to a Prince. Now whether his Majesty has been well used in this Revolution or not, I leave to the World to judg now, but God will do it afterwards.*

The Conclusion will serve me and him indifferently, and therefore I shall add no more but this: The Author of this Letter wrote it in an heat, before things were well understood, or at all determin'd, and therefore deserves much Compassion. Much that I have said in answer to it, was not known to him; and I am perswaded he himself will now see, and acknowledg too, the weakness of many things which he then advanced. In short, I design nothing by this Answer, but the Service of their Majesties, the Peace of England, and the Preservation of our Religion, our Laws and antient Government: And could these have been preserved any other ways, the Memory of his late Majesty should have been still Sacred to me, notwithstanding his Mis-government. Whilst this Piece was preparing to the Press, there was an Answer to his Paper printed in two Sheets in Quarto, wherein the Author has taken notice of some Passages in this Letter, which I thought fit to omit, as not being of any moment as to the main Question depending: And therefore if the Reader is not satisfied without so minute an Answer, he may have recourse to that Paper.

Reflections

Reflections on a P A P E R

INTITULED,

His Majesty's REASONS for withdrawing himself from Rochester.

Published by Authority.

THERE is a Paper spread about the Town, which might be confuted in every particular, not only with Clearness, but with Severity too, if there was not a restraint put upon the full liberty of answering any thing that goeth under a Name, to which Respect will still be paid, even by those to whom it is denied: Therefore nothing will be said to it by way of an intire Answer, nor any Advantage taken of the many Mistakes which lie too open to be defended. It shall suffice for the present to mention some things which are laid down in the Paper, in such a manner as may, perhaps, mislead Men into a wrong Judgment of them, for want of being sufficiently informed in the matter of Fact.

The Particulars are:

1. The Prince sending his Guards at Eleven of the Clock at Night, to take possession of the Posts at *Whitehall*, without advertising Him of it in the least.
2. The sending a kind of an Order by Three Lords, to be gone out of his own Palace before Twelve that Morning.

Matter of
Fact sta-
ted.

To the first, the matter of Fact is, That upon the King's being apprehended, when He was going out of the Kingdom, and afterwards being brought to *Rochester*, whither his Servants and Coaches were sent for by Him, to bring Him up to *London*; The Prince, who had upon that taken his Measures to hasten up to Town, and being fixed in his Opinion, That it was, in many respects, improper for the King and him to be there at the same time in the present state of Affairs, sent Monsieur *Zulestein* to meet Him in the way, and to desire Him to return to *Rochester*; but Monsieur *Zulestein* missing Him, by going another way than that by which He came, the King arrived at *Whitehall*, and at the same time sent a Message by my Lord *Feversham* to the Prince, inviting him to come to *St. James's*, with what number of Troops he should think fit to bring with him.

The Prince upon this deliberateth with the Lords then at *Windsor*, the day before he had appointed to be in Town; and having communicated the Message to them, and left them to debate the whole Matter, it was agreed, That it was in no kind advisable for the Prince to accept the Invitation; and on the other side, there being a necessity that the Prince should be in Town next day, the Lords thought that the shortness of time could admit no better Expedient, than that the King might be desired to remove to some place within a reasonable distance from *London*; upon which, *Ham*, a House belonging to the Dutchess of *Lauderdale*, was pitched upon. In order to this, a Paper was drawn in these words, and signed by the Prince.

WE desire you the Lord Marquiss of Hallifax, the Earl of Shrewsbury, and the Lord Delamere, to tell the King, That it is thought convenient, for the great quiet of the City, and for the greater safety of his Person, That He do remove to *Ham*, where he shall be attended by Guards, who will be ready to preserve Him from any disturbance. Given at *Windsor* the 17th day of December, 1688.

Prince de Orange.

The Prince appointed three Lords to carry this Paper; and it was resolved, That before the delivery, the Prince's Guards should be possessed of all the Posts at *Whitehall*, to prevent the possibility of a Disturbance from Guards belonging to several

veral Masters; which besides other ill Consequences might perhaps have involved even the King's own Person in the danger that might have arisen from any Dispute. ^{Placing Guards at Whitehall} It was supposed by computation, that the Prince's Guards might be at London by Eight of the Clock that Night: But it so happened, that it was past Ten before they all arrived, commanded by the Count of Solmes; and when they were come, there being difficulty made of withdrawing the King's Guards from Whitehall, there was so much time spent, that it was past Twelve of the Clock before the Lords could proceed in their Message. In which, that they might preserve all possible decency and respect; and that they might not suddenly break in upon the King with a Message of this kind, they sent to my Lord Middleton, his Principal Secretary of State, the following Letter.

My Lord,
T Here is a Message to be delivered to his Majesty from the Prince, which is of so great Importance, that we who are charged with it, desire we may be immediately admitted; and therefore desire to know where we may find your Lordship, that you may introduce,

My Lord, Your Lordship's most humble Servants,

Hallifax,
 Shrewsbury, Delamere.

The Lord Middleton told the Messenger, he would be ready at the Stairs of the Guard-chamber to carry the Lords to the King. Upon this they went, and finding my Lord Middleton at the place he had appointed, he brought them to the King, whom they found in Bed: After making an Apology for coming at an hour which might give him disturbance, the Prince's Message before recited was delivered Him; which after he had read, he said, He would comply with. Then the Lords, as they were directed, humbly desired, if it might be done with convenience to his Majesty, That He would be pleased to remove so early, as to be at Ham by Noon; by this means to prevent the meeting the Prince in his way to London, where he was to come the same day. His Majesty readily agreed to it, and then asked, Whether he might not appoint what Servants should attend Him? To which the Lords replied, That it was left to Him to give order in that as he pleased. And after that they took their leave: When they were gone as far as the Privy Chamber, the King sent for them again, and told them, That he had forgot to acquaint them with his Resolutions before the Message came, To send my Lord Godolphin next Morning to the Prince, to propose His going back to Rochester, He finding by the Message that Monsieur Zulestein was charged with, That the Prince had no mind He should be in London; and therefore He now desired that He might rather return to Rochester, than go to any other Place. The Lords replied, ^{K. James chuses to return to Rochester.} That they would immediately send an Account to the Prince of what his Majesty desired, and did not doubt of such an Answer as would be to His satisfaction: Accordingly they sent presently to the Prince, who was then at Sion, to inform Him of all that had passed; and before Eight of the Clock in the Morning had a Letter from Monsieur Benting, by the Prince's Order, agreeing to the King's Proposal of going to Rochester: Upon which, the Guards being made ready, and the Boats prepared, He went that Night to Gravesend.

The Observations which may naturally arise from this whole Matter are, First, That the King having been sent to by the Prince by Monsieur Zulestein, That He would be pleased to return to Rochester; this Message by the Lords could not possibly be a surprize to Him, but must have been expected as a necessary Inference from the first. And this is proved in Fact, by the King's having given Order to my Lord Godolphin to go to the Prince with an offer to return to Rochester, concluding that his Highness would have less exception to his being there, than he might have to his remaining at London.

In the next place; As to the Complaint of the Prince's sending his Guards at such a time of Night, and without giving warning; let it be considered, whether, since a thing of this kind was judged necessary to be done, it had not better Grace, even in respect to the King himself, to do it upon short warning, rather than expose Him more by treating and proposing formally that which his Majesty was in no condition to deny. In all Cases where the means of contesting fail, it is sure a Respect to those who are under such a disadvantage, not to add to their Mortification,

by

by drawing it out in length by the deceitful Ceremony of treating where no Power is left to dispute.

*Reasons for
the timing
of the Mes-
sage.*

Then as to the unseasonable Hour, besides other Reasons that have been mentioned; Would those who make the Objection have been content, a thing of this nature should have been done in broad day-light, and by sound of Drum and Trumpet? No doubt they would then with more reason have complained, That a King in these unhappy Circumstances, should be exposed to such an appearance of a Triumph; the thing in the World the Prince is the least inclined to, and in that respect hath right to the fairest Construction such a Proceeding will admit.

Whoever will compare the Power of the Prince, with the Use he maketh of it, must be sufficiently convinced of his Moderation: And in this particular Instance, allowing the necessity of the Prince's coming to Town that very day, of which he was the best Judg, and admitting the Consequence, which cannot reasonably be denied, That the King's remaining there at that time, might not only have given an Interruption to the Peace of the Town, but to the Respect that ought to be preserved to his Person; it was not possible to execute what was thought so necessary, with more Decency and Precaution than was observed; and impartial Judges, who are not carried away by the Sound of things, against the Reason of them, will, no doubt, give their Opinions, That this Proceeding doth not deserve any part of the Censure that hath been put upon it, by those who did not know the Truth of it.

An Enquiry into the present State of Affairs :

And in particular,

Whether we owe Allegiance to the King in these Circumstances? And whether we are bound to treat with Him, and call Him back again, or not?

*Decemb.
1688.*

Published by Authority.

*Duties of
Allegiance
and Protec-
tion reci-
procal.*

1. **S**INCE the Subject that is now undertaken, is of such vast Consequence, both to the Quiet of the Nation in general, and to the settling of the Conscience of every Man in it, it shall be treated with all possible plainness, and with that simplicity of Stile, which may shew that the Writer intends rather to convince than to amuse or mislead his Reader. It is certain, That the Reciprocal Duties in Civil Societies, are Protection and Allegiance; and wheresoever the one fails wholly, the other falls with it. This is so true, that in the only Government which is founded on the Law of Nature, I mean the Authority of a Father over his Children, if after a long course of rough and barbarous Usage, a Father goes about to destroy his Children, they owe him no other regard, but that of a due care of his Person; for since their Being was conveyed to them through him, they are for ever bound to preserve that Life which gave beginning to theirs; but as to their Service and Obedience, they are without doubt absolved, when a Father ceases to be a Father by becoming an Enemy. This is much more true with relation to every Form of Political Government, in which there is a mutual tie of Protection and Obedience, according to that System of Government given by St. Paul in his Epistle to the Romans, chap. 13. in the first seven Verses.

Let every Soul be subject unto the higher Powers : for there is no Power but of God. The Powers that be, are ordained of God.

2. *Whosoever therefore resisteth the Power, resisteth the Ordinance of God : and they that resist shall receive to themselves damnation.*

3. *For Rulers are not a terror to good works, but to the evil. Wilt thou not be afraid of the*

the Power? do that which is good, and thou shalt have praise of the same.

4. For he is the Minister of God to thee for good: but if thou do that which is evil, be afraid; for he beareth not the Sword in vain: for he is the Minister of God, a Revenger to execute wrath upon him that doth evil.

5. Wherefore ye must needs be subject, not only for Wrath, but also for Conscience sake.

6. For, for this cause pay you Tribute also: for they are God's Ministers, attending continually upon this very thing.

7. Render therefore to all their dues, Tribute to whom Tribute is due, Custom to whom Custom, Fear to whom Fear, Honour to whom Honour.

In these Words we have the Duty of the Magistrate, as well as the Obedience of the Subject, set forth, and so mixt together, that we must conclude, that upon the total failing of the one, the other does likewise cease.

2. I suppose few will dispute the matter of Fact, that the King being push'd on by his Zeal for a Religion, that must by its nature first deceive, and then destroy us, was subverting this Establishment both with reference to our Religious and to our Temporal Concerns; and that as this was carried on a great way, even to the Subversion of our Government and Laws, so it must have ended at last in the total Ruin of both, and in the exchanging that Independent Freedom, which is the present Glory, as well as the Security of the Nation, into a Subjection to a Foreign and Antichristian Yoke. This being confess'd by those for whom this Paper is written, it were needless, and might seem invidious to set about the proving of it. In a word, That which ought to have been our Security, was become our greatest Danger; as if the Cannon of a Fort that ought to point at the Enemy, were turn'd on the Inhabitants; in which case, how absolute soever the Authority of a Governor may be, yet as soon as it appears that the Bulwarks, instead of being the Defences of the City, are become Batteries to ruin it, Nature will lead to a short way of arguing: And all men will forget that one is their Governor, when they clearly see that he intends to turn their Destroyer.

Designs to subvert the Government and Laws.

3. A King's deserting his People, and withdrawing both his Person and his Seals, by which the Peace, Justice and Order of the Nation are preserv'd, does certainly warrant them to look to their own Safety and Preservation: and when they are oblig'd to do this by ways and methods that are inconsistent with his Authority, and that are so many Crimes if they stood still under any engagements to him, then they must be consider'd as acquitted from all their ties to him. It is the Great Seal that is the dead Spring of our Government, as the King's Presence, or the Presence of any that are deputed by him, gives life to it: when then this disappears, and the King withdraws himself, without naming any Persons to represent him, the Government is certainly laid down and forsaken by him. Indeed, if any eminent present Danger or just Fear (tho a King can never be decently suspected of that) had driven the King away, it might seem a little too hard to urge this too much. But when a Treaty was set on foot, and when by the Proposals which the Prince had made, and that came to the King the night before he left *Whitehall*, the Power both Civil and Military, the Army, the Fleet, the Forts, and the Revenue, were still left in his hands, and that the Prince's Army was not to come within 30 Miles of him, and that the Settlement of the Nation was refer'd to a Parliament (which was that which the King seem'd to desire by his publick Declaration, tho he shew'd his Averseness by destroying the Writs) and when all that was propos'd, that can be called hard, was only the executing the Law against Papists that were in Employments, the giving the City of *London* some quiet from their just Fears, and the assigning the Pay for the Prince's Army: all this being laid together, it is plain that the King had no just visible cause of fear upon him; and that therefore the withdrawing himself, was the forsaking of his People, which put them on the necessity of looking to their own Safety in the best manner they could.

Deserting the People, and carrying away the Seals.

4. It seems plain, that our Allegiance being our tie to the King, according to the constitution of this Government, it is either entirely dissolved, or it subsists still in its full vigour and force: If it is entirely dissolved, then we are under no obligations to the King; and if that Bond is once untied, so that our Consciences are freed from it, it will be a hard task to persuade men, that they ought to return to it again: If it stands in its full force, then we ought to recal the King, imploring only his Pardon for what is past, without entring upon any previous Treaty, or presuming to offer any Articles to him. If it is said, that the Allegiance, tho it still remains, yet is under a Suspension; as in the case of an Infant or a Mad-man,

Allegiance to K. J. dissolv'd.

*The Title
of King and
Regency in-
consistent
in the pre-
sent Case.*

in which a Guardian may be necessary for the Administration of the Government, tho the Right and Dignity is still in the Person of the King; and that therefore, tho the King's misguided Zeal may have render'd him unfit to govern, yet the Title and Dignity of a King ought still to be preserv'd, even when the Regency may be put in other hands. To this it is to be oppos'd, That in case of Infancy or Lunacy, the incapacity to govern is transient in the one, and so piteable in the other, that this will not afford an Argument in favour of an Incapacity that is affected and culpable: Besides, in those cases there is no danger to the Government, by any struggle between the King and the Regent; which cannot be avoided where a King is of age, and under no other distemper, but that which is the effect of his Religion. In this case a Contest is inevitable: A King without Power cannot be much at his ease; and his struggle for it must either end in the overthrowing the Regency, if not in the assassinating the Regent, or in the Imprisonment of the King; which must needs have such fatal Consequences, that it is not to be imagin'd that any of the King's Children, in whom Piety and Nature work, can ever engage into a state of Life that gives them so melancholy a Prospect: Besides, that the Name and Title of *KING* carry a sound with them that strikes the People; and if now, after all the provocation that the Nation is under at present, it is yet thought fit to let the Title and Dignity remain in the King, it will be natural for all men, when that sharpness is over, to soften, and to think that things have been carried too far: And since no Government is secure from Accidents, and free from all the Subjects of discontent, it is not unreasonable to foresee, that the leaving any Root in the ground, may occasion a new Spring at some distance of time, when past Errors may be forgot, and the present Accidents may give another turn to mens thoughts. We are likewise as much bound by the Oath of Allegiance to maintain the King's State and all his Prerogatives, as his Title and Dignity. It will look like the condemning our own Actions, to allow him the Honour, and to take from him the Power of a King; so that if the Oath may be slacken'd in one point, I do not see why it must of necessity bind us in another. In a word, we do either too little or too much, if we allow him to be King, and do not likewise vest him with the whole extent of Royal Authority.

*No Security
by a
Treaty
with K. J.*

5. In all Settlements it is very natural for men to look for good Security, especially for those, who being newly come out of a Storm, have the terror of it still on their thoughts. Now what Security can be propos'd in any Treaty with the King? We see what insignificant things Promises and Oaths are, when Popery is in the other Scale; and to trust any more, is too impudent a Proposition, to apprehend that any one should insist upon it. As for all Limitation by Laws, when that for the Test-Act, which was pen'd with all possible Caution, has been broke through by a pretended Dispensing Power, it is a vain thing to trust such Remedies against an ungovern'd Zeal, which when whetted with Resentment must act with so much the more Rigor and Fury. We have also many Instances in our own time, to shew us how little regard is to be had to all the Offers that are made in general Terms, in order to the gaining of a great point, which being once gain'd, those Offers are no more thought of. To make way for the late King's Restauration, nothing was so much talk'd of, as the Terms on which he should be restor'd; but the Point was no sooner gain'd than the Terms were not only forgot, but all things were carried higher than before. And a few years ago, when the Nation was set on the Bill of Exclusion, all those who oppos'd it were framing Schemes of limiting a Popish Successor; but that Storm was no sooner weather'd, than a Party was form'd that carried their Victory so far, that instead of Limitations, all the chief Securities and Fences of our Government were thought the only proper Sacrifice to atone for the guilt of attempting the Exclusion. So if a Treaty were once open'd, and the King were to be brought back again, on what terms soever it might be, we should probably see the whole design of Popery and Arbitrary Government return upon us with more fury than ever: and we should find our selves in no possibility of resisting it, or being redeem'd from it; for this Deliverance was no such easy Performance, as to make us think that such another could ever be compassed, or that God will work new Miracles for our Preservation, after we had thrown our selves back into that miserable Condition out of which he has rescued us.

*Objections
from the
Oaths to
K. J. an-
swer'd.*

6. If it be insisted on that the Oaths of Supremacy and Allegiance are conceiv'd in such terms, that there is no breaking through them; and that we have sworn that we shall never take Arms against the King; that we have renounc'd the Position as traitorous, of making a distinction between the King's *Person* and his *Power*; in short, that we are under the most express ties that can be put in words, never

never to rebel against the King, nor to shake off his Authority. To all this it is to be answer'd, That the end and design of those Oaths was to secure us against the danger of Popery, as any one may see in the Acts by which they were impos'd: And tho all these Oaths are still to the King; yet that is to a Prince who subsists upon Law, and rules by Law; and therefore if the King ceases to be King, by subverting our Constitution first, and deserting us next, then all our Oaths fall to the ground: as the Matrimonial Oath, tho made for term of Life, yet is capable of being dissolved, when that which is the Essence of the Bond is broke. And if the King ceases to be a King, then the *next Heir becomes the only lawful and rightful King*: and if the next is a *Femme Covert*, then by the Law of Nations, which creates a Communication of all the Rights of the Wife to the Husband, this is likewise communicated, so that here we may have still a *lawful and rightful King*. And after all it is plain, that if any diminution of the Regal Authority be impos'd on the King, as the condition upon which only he can be admitted, this very Imposition is as real a breach of the Oath, as a total shaking him off. This makes a vast difference between the King's *Person* and his *Power*, tho that is a Point expressly renounc'd in the Oaths that we swear; so that it is plain after all, that if the Oath of Allegiance binds us still, it binds us to a great deal more than those that are for treating seem willing to allow.

7. All the Schemes that may be offer'd of securing us by a Treaty with the King, have such visible Defects in them, that Men who are accusom'd to examine things cannot be deceiv'd by them. We have had it given for Law of late, too often to forget it, that all Acts of Parliament that are to the *Disherison of the Crown*, are null and void of themselves: So here all the Securities that can be offer'd us, are swept away at once. We can have no legal Parliament without swearing first the Oath of Allegiance to the King; and what a scorn is put on God and Religion, if one swear this Oath to the King, after he is reduc'd to that naked state to which these Treators pretend to bring him? Nor can the Nation have any Security by Law, either for what is done, or for what may remain yet to be done, but by Acts that are pass'd by *King, Lords, and Commons*. Men are to be pardon'd if they are uneasy, till they have the utmost Security that the Constitution can give them. And after all, whosoever is the *King for the time being*, he has the Law so entirely of his side, that tho during the present Fermentation the force of this is not perceptible, yet it is a Cruelty not to be easily forgiven to keep a Nation too long in so dangerous a Condition.

8. But after all some Men plainly say, *the King can do no Wrong*, that his Ministers are only accountable for all the Ill he had done; and that the Prince in his Declaration has laid the blame of all that for which he engag'd in this great Design on the evil Counsellors about the King, on whom the Punishment ought to fall, and not on the King himself, whose Person is exempt from Censure. To all which this is to be answered, that the Maxim, *The King can do no Wrong*, is perverted to a sense very different from that which was at first intended by it; for the meaning of it is only this, That the King's Power cannot go so far as to support him in the doing of any Injustice or Wrong to any, according to that Chapter in *Magna Charta*, by which all Commissions granted against Law, are declared to be null and void: for this is the true meaning of that Maxim. But there is no reason to carry this so far as that if Kings will strain their Authority visibly, to do the highest Wrongs possible, they were in no way accountable for it. Whatsoever has been done in Parliament, and has never been condemned by any subsequent one, is a part of the Law of *England*; since then two of our Kings, *Edward the 2d*, and *Richard the 2d*, have been judg'd in Parliament for their Male Administration, and since these Judgments have never been vacated by any subsequent Parliaments, those Proceedings are a part of our Law. And tho perhaps there have been more express Definitions made of late in favour of the Crown than ever were in former times, yet as long as those Proceedings remain upon Record, it is plain that this great Right of the *English Nation* of preserving it self in cases of extreme Necessity against the violent Invasions that the Crown may make upon it, is still entire and in force. But after all it will be readily yielded, that as the Life of a Father is never to be attempted on by his Children, how great soever their Provocations may be; so the King being made the Political Father of the Country, his Person ought still to be sacred. But when the Root of the King's overturning our Laws is his being so entirely devoted to his Religion, and to the Order of the Jesuits,

How the King can do no wrong.

how decent soever it might be for the Prince to lay the Blame of all on his evil Counsellors, yet it will be an unreasonable piece of Tenderneſs in the Representative of the Kingdom, not to lay the blame of things where it ought to be laid.

To enter on
Treaties
with K. J.
no ways
advifable.

9. Either all thoughts of treating with the King, or all Enquiries into the Birth of the pretended Prince of *Wales* are to be laid aſide. The King has gone ſo far in what he has averred, with relation to that matter, that it is impoſſible to judge it an Impoſture without giving him a large ſhare in it; and no Man can think that it is poſſible to maintain the common Decencies of Reſpect to the King, if any ſteps are made in that matter: for even an Enquiry into it is the calling his Honour into queſtion, in ſo ſenſible a point that no Man that can make a Diſcovery is ſafe to make it, nor are any ſafe who pretend to examine it, as long as there are any thoughts of treating with him; which will never be believ'd to be quite laid down, as long as the Title of King is acknowledg'd to be ſtill in him. Men that condemn the Errors in Government committed by him, may flatter themſelves with the poſſibility of his pardoning them; but there is no Mercy where the Matter is perſonal, in which his Honour is ſo immediately concerned, and where a Judgment againſt the Child caſts ſo black and ſo indelible a Stain on himſelf.

To no pur-
poſe to offer
Articles to
K. J.

10. If Articles are prepared to be offered to the King, they will be either ſuch as he will probably grant, or ſuch that it cannot in reaſon be expected he ſhould grant them. The former is not to be ſuppoſed; for ſuch a ſtripping himſelf of Power, as ſeems neceſſary to give us any tolerable Security, is that which we ought not to imagine he will grant: and it will appear to the World a triumphing over him in his Miſfortunes, if we make a ſhew of treating with him, when it is viſible beforehand that the Demands which muſt be made him are ſuch, that he cannot in Honour grant them, nor we in Reaſon expect them from him. When Matters are brought to that paſs at which they are at preſent, it is more ſutable to the Dignity and Wiſdom of the Nation to act frankly and above-board, than to think to varniſh them over with ſome outward Appearances. In ſuch caſes, any other way of proceeding has not that Air of Greatneſs and Openneſs which is neceſſary upon ſuch occasions. A great deal of time will be loſt in preparing the Propoſitions; and a Treaty being once entertained, many may be practiſed on, and either be corrupted or deſtroyed. And perhaps the half of the Articles will be drop'd in the Treaty, or the whole will be given up by the King in leſs time than was imployed in preparing any one of the Articles. The very talk of a Treaty will keep the minds of many in agitation and ſuſpence: Some that are now deſperate with relation to the King, may enter into a ſeparate Treaty with him; and an inconstant Multitude will be too much tempted to run as faſt to him as ever they ſhewed Zeal againſt him. That theſe are not imaginary Dangers is viſible to all that have converſed much in Hiſtory, or have obſerved the varieties of Mens Thoughts with relation to publick Affairs, and conſidered how little is to be built on any preſent Heats, how fervent and how univerſal ſoever they may ſeem to be, and how ſoon a Nation may be apt to run even out of one extreme into another: and therefore keeping things ſtill in a looſe and unſettled State is the hazarding the whole matter, and the running the riſk of a Relapſe, which will be much more dangerous than the former Diſeaſe was, unleſs the King of *France*, who has the King now in his power, will be pleaſed to mediate for us, out of his tried Love to us and our Religion.

A Proteſ-
tant King-
dom incom-
patible
with a Po-
piſh King.

11. The clear and natural method of proceeding upon this Occaſion, is, Firſt, To ſtate this Nation as a Proteſtant Kingdom, that is incompatible with Popery or a Popiſh King, of which Opinion many were before the King came to the Crown; and he has ſo managed the Matter ſince, that he has convinced the whole Nation of it at laſt. Here a view may be taken of the Courſe of his Government, in thoſe things that have been Notorious and Publick, without entring into ſuch Specialties as will need proof, and by conſequence take up time: and in concluſion it is to be ſet forth, that he has quitted the Realm in a Storm, and has left the Nation to ſhift for it ſelf; and has both deſerted the Government in general, and abandon- ed even thoſe who had ſtuck to him, and were ready to have ſacrificed all for him in particular. And that the laſt Act of Authority might be long remembred, he ordered his Army to be diſbanded; which (ſince it was to be done without pay- ing or diſarming the Soldiers) was the letting looſe of ſo many Armed Men, under the greateſt temptation, to live like *Banditti* and Robbers in the Nation. Upon all this

this it is natural to declare the Throne void ; and that the King has fallen from all Right to it. In all that I have said concerning his Desertion, I limit my Reflections to his first leaving of *Whitehall* ; for the Accident at *Feverham*, and what followed after that, cannot be called a Return to his People : and since the Seals never appeared, and the King never spake of a Parliament, nor altered his Measures in any thing, but still prosecuted his first Design by his second Escape, his deserting is still to be dated from his first going from *White-Hall* ; and he having given that just Advantage against himself, which came after all that series of Injustice and Violence that had gone before it, no Man can think that it was not very fitting to carry it as far as it would go, and not to treat with him any more upon the foot of acknowledging him King.

K.J. leaving
White-
hall and
the Govern-
ment, made
the Throne
vacant.

12. When all this is laid together, it is not to be supposed, that considering Men can be shocked with those Prejudices that arise, rather out of the sound of some ill understood Words, than out of any real and forcible Arguments ; and it can least of all be imagined, that the great and learned Body which has so triumphed over Popery in their late Contests with it, should now let themselves be so misled with the narrow Notions of an unbounded Loyalty, as to oppose or even dislike such a compleat Settlement, as the present Exigence of our Affairs requires. Their Worth, the Courage that they shewed against Popery, and their Readiness to have been made Sacrifices in that noble Resistance which they both made and maintained to the last, has indeed raised them above Censure, and all severe Imputations. But it cannot but lessen the Esteem that is due to any, tho it does not detract from their Worth, if they will still pursue a point that is liable to such great and just Exceptions. No body can think they are in love with Popery, or fond of coming again under Father *Peter's* Ministry : but Men that see through all the Reasons that are offered for Treating, and foresee the fatal Consequences that must attend it, will be tempted to think that some Men, either have not strength of thought enough to examine this whole matter more impartially, or that having once declared themselves of a contrary Opinion, they cannot conquer Nature so far, as to do that which will import a Confession of their once having been in an Error.

A

A Brief Justification of the Prince of ORANGE's Descent into *Eng-* *land*, and of the Kingdom's late Recourse to Arms.

WITH

A Modest Disquisition of what may become the
Wisdom and Justice of the Ensuing CONVEN-
TION in their Disposal of the Crown.

The Au-
thor's De-
sign.

P. of O's
Descent
justify'd.

WHatsoever may occur in the ensuing sheets, disagreeable to the Politicks of some late Writers; yet I have not only declined to name the Persons whose Principles I contradict, but have forbore mentioning any of those execrable Doctrines, by which they have endeavoured to betray us into Slavery, and have both tempted Princes to an exercise of Tyranny, and done what they could to justify them in it. 'Tis unsutable to my Temper, as I do reckon it mean in it self, to administer occasion, whereby the Reputation of any that can be supposed reclaimable, may become exposed, or their Persons rendred any ways obnoxious. For tho it would be an abandoning our selves and Posterity to worse miseries, than the Nation hath either felt, or with much difficulty escap'd, not to fasten in a Parliamentary way, a brand of indelible infamy upon their Illegal, Treacherous, and Enslaving Tenets; yet I hope, as well as desire, that the utmost degrees of Mercy will be exercised towards the Highest Prerogative Authors, which shall be found consistent with the rendring our Constitution and Laws for the future safe and inviolable. And as I never hitherto acted upon other inducements, than those of serving the Glory of God, and of asserting the Rights, and promoting the Interest of my Country; so the alone Motive, as well as Prospect, upon which I do now write, is the vindicating of the Methods that have been applied unto for our Relief and Redemption, and the offering such further Measures as remain to be pursued, for the establishing our Peace and Happiness upon Foundations, that will both ensure and support them. Nor does he deserve a Name amongst, much less a share in the Privileges peculiar unto English-men, who will not contribute what soever lieth within his Circle, both for hindering our relapsing either into Confusion, or into Thralldom, and for advancing the Tranquillity, Welfare, and Prosperity of the Kingdom, not only to what they ever were in its most settled and fortunate state, but beyond the felicity we enjoy any former Precedents of. Especially seeing his Highness the Prince of *Orange*, with a Compassion, Generosity, and Zeal, not to be paralleled on the File of History, hath put it into our own power, to retrieve and re-establish the Privileges and Liberties which by Force and Fraud have been wrested from us, to prevent their being either invaded or subverted hereafter, and to make such Additional Provisions as shall be reckoned necessary, as well for our own enjoyment of the Reformed Religion, without fear or danger, and for transmitting it safe and uncorrupted to our Posterity, as for rendring the Kingdom, by reason of Wealth, Security, and Renown, the envy of all Nations about us. And as the Condescension, Self-denial, and Moderation of the Prince of *Orange*, after so tempting as well as signal a Success, transcends all Examples conveyed unto us in the Records of Time; so we should not only be very ill men, should we depart from his Temperance of Mind, either in the things we have left us to be prosecuted, or in the manner of promoting them, but we should be that, and withal extremely unwise, if we be not awakened and provoked to mind and advance his Honour, Greatness,

Greatness, and Interest the more, by how much we find him through Modesty to neglect them.

The Consideration of Government in general, is none of my Province at this time, farther than to observe, that as it derives its Ordination and Institution from God, so it is circumscribed and limited by him, to be exercised according to the Laws of Nature, (and of plain Revelation where vouchsafed) in subserviency to the glory of the Creator, and the benefit of Mankind. All Rulers are thus far under Pact and Confinement, that they are obliged by the Almighty and Supreme Sovereign, to exert their Governing Power for the promoting his Service and Honour, and to exercise their Authority for the Safety, Welfare, and Prosperity of those over whom they are established. There need no previous Compacts and Agreements between Princes and People as to these, forasmuch as they are settled and determined by the Law and Appointment of the Divine Legislator, and of the Universal Sovereign. Whosoever refuseth to govern in subordination unto and for God, and in order to the protection and benefit of the Community, ceaseth to answer the Ends unto which Magistracy was instituted, and for which Rectoral Authority is established over and among Men. Nor is it in the choice or power of any Society at their erecting the Forms of Government, under which they are contented to live, and at their nominating the Persons to whom they commit the Right of administering Justice towards and over themselves, and of withstanding and avenging injuries offered them by others, to enlarge and extend the power of those whom they constitute their Rulers, beyond the Limits and Boundaries unto which God hath staked and confined Magistrates, in the Charters of Nature and Revelation. Tho people may both then and afterwards abridg themselves, as they think meet, in things under their own disposal, and either narrow or enlarge the Rulers power, in reference to what they have a Right to retain or depart from, for the real or imagined benefit of the Community; yet they can no ways interpose in the disposal of the Rights which belong unto God, and which he hath incommunicably reserved to himself; nor can they confer those measures and degrees of Authority unto those whom they elect and advance to Magistracy, which God hath antecedently precluded the one from bestowing, and the other from receiving. For example, no Body or Society of men, can transfer a power unto those whom they select and set apart from among themselves to be Rulers over the Community, in the virtue whereof, those vested with Magistratical Authority, can withdraw their Subjects from their Allegiance to God, act arbitrarily in prescribing and imposing what Religion they please, or destroy the meanest person, save upon a previdus Crime and a just Demerit.

Benefit of the Community the End of all Government.

Now God having in the Institution of Magistracy, confined such as shall be chosen Rulers, within no other limits in reference to our civil concerns, save that they are to govern for the good of those over whom they come to be established, it remains free and entire to the People at their first Erection of, and Submission to Government, to prescribe and define what shall be the measures and boundaries of the publick Good, and unto what Rules and Standard the Magistrate shall be restrained, in order to his defending and promoting the benefit of the Society, of which he is created the Civil and Political Head. And every one being equally Master of his own Property and Liberty, antecedently to their Agreement with one another, and to the compact of the Universality, or at least of the Majority, with him or those whom they call to rule over them; it evidently follows, that those who come to be clothed with Magistracy, can lay claim to no more Authority over the Liberty, or pretend to no more Right in and over the Property of that Body Politick, than what the Community conferred upon them, and doth voluntarily divest themselves of, upon the prospect of the advantages arising to them from their living in Societies, and under Magistrates. We must suppose all Mankind to have been infatuated, and to have become distracted, if they should have submitted themselves to the Jurisdiction of one who had no antecedent Right to command them, merely in order to their being in a worse Condition than they previously were. And therefore seeing the extent and latitude of the Magistrates Power, must owe its Original to some Grant of the People, it does from thence lie incumbent upon him, to prove and justify the several degrees and measures of Authority and Prerogative which he pretends to claim. And whatsoever he cannot derive from some Concession of the Society, must be acknowledged to remain still vested in the People, as their reserved Privilege and Right. And whatsoever he pretends unto, which he cannot prove their surrendry of from themselves unto him, argues not only his departing from the Compact betwixt him and the Community, by virtue whereof he was ordained

Original of Power.

and

and created their Ruler, but it renders him guilty of an Invasion upon the Rights of the whole Society, and upon those of every individual Member of it. Force and Conquest give no just nor legal Title over a People by which the Conqueror becomes their Magistrate, until they by some consent either *tacit* or *explicit*, declare their submission to and acquiescence in him, upon the best Terms which they can obtain, and that he is willing to grant. And as no Government is lawful, but what is founded upon Compact and Agreement between those chosen to govern, and them who condescend to be governed; so the Articles upon which they stipulate the one with the other, become the Fundamentals of the respective Constitutions of Nations, and together with superadded positive Laws, are both the Limits of the Rulers Authority, and the Measures of the Subjects Obedience. To extend the Governours Right to command, and Subjects Duty to obey, beyond the Laws of ones Country, is Treason against the Constitution, Treachery to the Society whereof we are Members: and through dissolving the Ties by which Princes stand confined, and overthrowing the Hedges by which the reserved Rights, Privileges, and Properties of the Subjects are fenced about, every Prince is made a Tyrant, and all Subjects are rendered Slaves. Nor are all previous Agreements, Stipulations, and Laws made insignificant and useless by such a pernicious and adulatory Doctrine as that of Non-resistance, when our Rights are arbitrarily invaded, and the Constitution and Government avowedly subverted; but they are mere Tricks and Cheats for decoying those that were antecedently free, into a noose and state of Thralldom and Bondage, under the specious and gilded pretence of rendring their Liberty more secure, and their Condition more safe.

Legal Government
fram'd on
Compact.

And as 'tis by virtue of Compacts, Stipulations, Compromises, and Agreements, that all legal Governments have their Original and Establishment, that various and distinct Forms obtain in different Countries, and that a Title and Right to ruling Authority, and the Method of arriving at it, is provided for and procur'd; so every Subject's Allegiance is first owing to the Constitution, and to the Ruler only in the Force and Virtue of what every Member of the Political Society is bound unto, by the Terms of the Original Pact and Settlement. Abstracting from the Constitution, and the Obligations which it lays us under, no man can challenge a Right of Commanding us, nor do we owe him any Duty of Subjection and Obedience. Whosoever he be that under a pretence of being constituted Sovereign, does invade and subvert the Fundamental Laws of the Society, he does thereby *ipso facto* annul all the Legal Right he had to govern, and absolves all who were before his Subjects, from the Legal Engagements they were under of yielding him Obedience. So that the immediate and natural Effect of a Prince's claiming what the Rules of the Constitution are so far from entitling him unto, that they preclude him from it, is the depriving himself of all Right to claim any thing, and a restoring of the People to their State and Condition of Primitive Freedom; of which as they only divested themselves by and upon the Terms of the Constitution, so they neither departed from it any longer than that should be kept sacred and inviolable, nor any further than was covenanted and stipulated in and by the Terms and Agreements therein specified and contained. And seeing it proceeds from the Efficacy of the forementioned Contracts, that one Person becomes advanced from the common level to the Title and Authority of a Sovereign, and that all others are by their own consent reduced and brought down to the condition of Subjects, there doth arise from thence not only a mutual Relation betwixt him that governs, and them that are governed, but the first and highest Treason is that which is committed against the Constitution; and such and such Crimes against the Person and Dignity of the Supreme Magistrate, are only made and declared to be so, by reason of the capacity he is put into by the Constitution, of preserving and defending the Society, and because it is needful in order to the Peace, Welfare, and Safety of the Community, that he should be covered from all Danger, and rendred Sacred in his Person, and inviolable in his Regal Honour, while he answereth the Trust which the People, upon their Assembling and Uniting into a Body Politick, committed unto him, and does neither depart from the Essential and Fundamental Terms of the Original Compact, nor from their necessary Provisions afterwards added, and enacted for preserving the Government in its primitive State and Frame. So that they neither are nor can be Traitors, who endeavour to preserve and maintain the Constitution; but they are the Traitors who design and pursue the Subversion of it. They are the Rebels that go about to overthrow the Government of their Country; whereas such who seek to support and defend it, are the truly Loyal Persons, and do act conformable to the Ties and Obligations of Fealty. Nor is it merely the first and highest Treason in it self, that

that a Member of a Political Society is capable of committing, to go about to subvert the Constitution; but it is also the greatest Treason he can perpetrate against the Person, Crown and Dignity of the King; for such an Endeavour both annuls and vacates all his Title to Superiority over those, above whom he was exalted from the common level, by virtue of the Constitution, and deprives him of all rightful and legal Claim of Rectoral Authority over the Society, by destroying the alone Foundation upon which it was erected, and by which he became vested with it. Thro cancelling the Charter, from which he deriveth and holdeth his governing Power, they not only make his Title to Sovereignty precarious, but they do render every Claim of that kind, and every challenge of governing the Community, to be an Invasion and an Usurpation. To all which I will only further add under this Head, That as all Legal Government is founded upon a mutual Stipulation and Compact, so the first and most absolute Obligation arising from this Agreement, becomes incumbent and lies upon the Prince towards the People; whereas the Fealty and Duty which by the said Contract and Covenant they bind and engage themselves unto towards him, is in order but Secondary and Conditional. Whenever any Person is chosen from the rest of the Society, and raised to Kingship upon a foregoing and previous Contract with the Community, he becomes upon the very accepting of it bound absolutely and without reserve to govern them according to the Terms and Measures, which they and he have agreed and stipulated, and to rule them by the Tenor of the Laws, unto which they have circumscribed and confined him. Whereas all the Obedience and Fealty which they who by that Agreement have rendered themselves Subjects, owe unto their ordained and created Sovereign, do derive their Obligatory Force towards them, and become due unto him, upon his governing them according to the concerted and stipulated Conditions, and his preserving unto them their reserved Privileges, Liberties, and Rights.

To subvert
the Consti-
tution the
highest
Crime.

Now as *England* has been the most provident and careful of all Nations, in reserving unto it self, upon the first Institution of and its Submission to Regal Government, all such Rights, Privileges, and Liberties, as were necessary to render it either renown'd and honorable abroad, or safe, happy, and prosperous at home; so it hath with a Courage and Magnanimity peculiar unto it, maintain'd its Privileges and Liberties through a large and numerous Series of Ages, and either reassur'd and secur'd them by new and superadded Laws, when there were Endeavours to undermine and supplant them, or else hath vindicated them with a generous, manly, and military Courage, even to the Deposition and Abdication of Treacherous, Usurping, and Tyrannous Princes, when more gentle, mild, and Senatorian Methods were found weak and ineffectual to cover and protect them to themselves, and to convey and transmit them to such as were to come after. The People of *England* have the same Title unto, and Security for the enjoyment of their Liberties and Properties, that our Kings have unto their Crowns, or for defence of the Regal Dignity. For as they can plead nothing for what they enjoy or claim, but fundamental and positive Laws; so the Subject's Interest in his Liberty and Property is convey'd unto him by the same Terms and Channels, and fenc'd about with the same Hedges and Pales. *Horn* tells us in his *Mirroure*, Chap. 1. That the *Saxons* having put an end to the *Heptarchy*, by reason of the continual Wars that attended the reigning of so many Kings in so narrow a Compass of Land, *how they chose themselves one King to maintain and defend their Persons and Goods in Peace by Rules of Law, and made him swear, that he should be obedient to suffer Right as well as his People should be.* For according to *Bracton*, lib. 3. c. 9. *The whole Power of the King of England, is to do good, and not to do hurt; nor can he do any thing as a King, but what he can legally do.* And as we know no King, but a King by Law; so we are assur'd by *Fortescue*, lib. 1. c. 8. and lib. 3. c. 9. *that he governs not his People by a Regal Power, but by a Politick.* From thence our Princes were antiently bound to swear at their Coronation, *That they would govern according to Law, and preserve unto them all their Customs and Franchises: (Stat. of Provis. 25 Ed. 3.)* Nor can we have a clearer evidence of the Legal extent of the King's Authority, and of the dimension of the Obedience which the Subject is bound unto, than that which we have in the Oath of Fealty, which formerly us'd to be exacted of the Subject: Namely, *That he should be obedient to all the King's Laws, and to every Precept and Process proceeding from the same. (Wilkins Treat. Coron. &c. Court Leet, &c. p. 140.)* Nor is that unworthy our observation, which *Hen. 1.* writ to the Pope, when attack'd by him about the matter of Investitures; viz. *That he could not diminish the Rights either of the Crown or of the Kingdom; and that if he should be so abject and mean as to attempt it, the Barons and People of*

England
zealous to
preserve its
Liberty.

How the
King is
said to do
no wrong.

England represented in Parliament would not allow or permit it: *Optimates mei, & totius Angliæ populus, id nullo modo paterentur.* 'Tis upon this account affirm'd of an English King, That he can do no wrong, because he can do nothing but what the Law impowers him. For tho he hath all things subjected to his Authority, while he acts according to Law, yet there is nothing left to his Arbitrary Will. The several Charters, especially that stil'd the *Great Charter*, in and by which our Rights stand secur'd, sworn and entail'd unto us and to our Posterity, were not the Grants and Concessions of our Princes, but Recognitions of what we had reserv'd unto our selves in the original Institution of our Government, and of what had always appertain'd unto us by Common Law and immemorial Customs. And tho these Privileges and Liberties came to be more distinctly express'd and signally ratified in the *Great Charter*, than they had been before; yet they had not only been acknowledg'd and transmitted down in the Laws of *Edward the Confessor*, as the Birth-right of every Englishman; which also *William the first Norman King* ratified as such: but they had long before been collected into a Body by King *Edgar the Saxon*, and were only revis'd, repeated, and confirm'd by the *Confessor*. But amongst all the Rights and Privileges appertaining unto us, that of having a share in the Legislation, and of being to be govern'd by such Laws as we our selves shall chuse, is the most fundamental and essential, as well as the most advantageous and beneficial. For thereby we are enabled to make such successive and continual Provisions, as the preservation of the Society, and the promoting either of the Temporal or Eternal Welfare of the Subject, shall be found to render needful or expedient. And as thro being possessed of so great a portion of the Legislative Power, and thro having a right by several positive Laws to Annual Parliaments, we can both relieve our selves from and against every thing that either threatneth, endangereth, or oppresseth us, and furnish and accommodate the whole Community with all legal Succours, and means that are necessary for Peace, Preservation, and Prosperity; so herein lies our signal Advantage and Felicity, that what we become interested in by a positive and statute Law, it doth thereby and from thence become a part of our Right and Property, and not to be wrested again from us but by our own consent. For as *Bracton* saith, lib. 1. c. 2. (tho it be also one of the first Dictates of Reason and common Sense) *Leges non possunt mutari nec destrui, sine communi consensu & consilio eorum omnium, quorum consilio & consensu fuerunt promulgatæ*; Laws can neither be altered nor vacated, save by the consent and concurrence of the same Authority, by which they were made and enacted. 'Tis true, that the executive part of the Government is both by our Common and Statute Laws convey'd unto and vested in the King; but at the same time there is sufficient Provision made both in the Terms of our Constitution, and in our Parliamentary Acts, to prevent this from being hurtful unto us, unless our Sovereigns become guilty both of the highest Treachery, and withal make an Invasion upon and endeavour the Subversion of the whole Government. A Right of overseeing the Execution of the Laws, being a Prerogative inseparable from the Office of the Supreme Magistrate, because the very Ends to which he is clothed with Rectoral Authority, and for which he is designed and established, are the conservation of the publick Peace, and the administration of Justice towards and among the Members of the Body Politick: all to be expected from the wisdom of the Society, or practicable by them, either upon the first erection of, and submission to Civil Government, or upon their future improvements and farther regulations of it, was to direct, limit, and restrain this Executive Power committed unto the Sovereign, and to make him and his Subordinate Ministers accountable, in case they should deny, delay, or pervert Justice, or be found chargeable with Male-administration of the Laws. Nor was ever a People more provident as to all these, than our Predecessors and Ancestors have been. For as they have left nothing to the King's private discretion, much less to his Arbitrary Will, but have assign'd him the Laws as the Rules and Measures he is to govern by; so they not only delegated it unto him, as a Trust which he is to swear faithfully to perform, but they always reserv'd a Liberty, Right, and Power unto themselves of inspecting his Administration, making him responsible for it, and of abdicating him from the Sovereignty upon universal and egregious Failures in the Trust that had been credited and consign'd unto him. Of this we have indisputable Evidence in the Articles advanc'd in Parliament against *Richard II.* when he was depos'd from the Throne, and had the Scepter taken out of his hand. Yea to prevent all Dangers which might befall the Subject thro the King's being trusted with the executive Power of the Government, he is not by our Constitution

The King
entrusted
with the
Executive
Power.

Case of K.
R. II.

and Laws allowed to do any thing in his own Person, nay not so much as to draw and seal the Commission of those that are to act in his Name, and under him. And as nothing is accounted in our Government a Commission, but what the Law authorizes and warrants; so he is liable to be proceeded against as the highest Criminal; that presumeth to act in the virtue of any other. An illegal Commission is so far from conveying a Power unto any Man to act, that it is a greater Crime to do any thing upon the Authority of it, than it would be to commit the same Fact, without all colour and pretence of Power and Warrant. Seeing the Injury in the one Case doth only affect and terminate in him that receives it; whereas in the other it affects both the King, the Government, and the whole Body of the People. And as if it were not enough to preserve us harmless from the executive Power lodged in the King, that all the Commissions issuable from him are to be legal, or otherwise to be accounted null; even they who stand warranted and empowered to act by legal Commissions, are not only to be sworn to execute them legally, but are obnoxious to be punished for every thing they do upon them that deviates from the Measures of the Law. And as 'tis the Duty, and hath been the Practice of those who have been faithful to the Trust reposed in them, regardful of their own Honour, and just to the Kingdom, to punish their Officers and Ministers for Malversation, and for departing in their Administration from the Rules of our Common and Statute Laws; witness King *Alfred*, who caused Forty four Justices to be hanged in one Year for illegal, false, and corrupt Judgments: so it belongeth to our Parliaments, as being one of the great Ends as well as Reasons, for which they ought to be frequently called and assembled, to inquire into, and to punish the Crimes of Judges, and of all others employed by and under the King, in the executive Part of the Government. From hence it is, that as the House of Commons, among other Capacities in which they sit and act, are by the Constitution to be the great Inquest of the Kingdom, to search into all the Oppressions and Injustices of the King's Ministers; so the House of Lords, among their several other Rights and Privileges, stand clothed with the Power and Authority of the High Court of Judicature of the Nation, who are to punish those who have misbehaved themselves in all other Courts, as well as those whom Inferiour Courts have either connived at, or have been so wicked as unrighteously to justify. Of this all Ages afford us Precedents, and nothing but the supineness of this, in not making so frequent and signal Examples of Parliamentary Justice among the Ministerial Dispensers of our Laws, and among the Officers of our late Kings, as our Ancestors used to do, hath rendred our withdrawn Prince's being trusted with the executive Part of the Government, so mischievous unto the Kingdom, and the Abuse of it so fatal at last unto himself.

Corrupt
Judges
punished.

Having with all imaginable brevity declared the Nature, and stated the Boundaries of our Government, both in what is intrusted with the King, as well as in what is reserved unto the People, that which in the next place I am to address myself unto, is to enquire whether a King of *England* can so misbehave himself in his Office, as that according to the Rules of our Constitution, and the Measures of Justice, he may be either resisted in his Arbitrary and Illegal Exercise of it, or degraded and deposed from his Regal Dignity. And it ought to have no small influence upon our Understandings, towards our assenting to and embracing the Affirmative, that our Predecessors not only managed open War with a *Nolumus Leges Angliæ mutari* upon their Banners, against King *John* and *Henry* the Third, for usurpation upon their Laws and Liberties; but that within the same compass of the *Norman* Race, they dethroned and abdicated *Edward* the Second, and *Richard* the Second, for their Tyranny and Male-administration. Nor are there any Authors meriting the least regard among the highest Assertors of Monarchy and Regal Prerogative, who do not allow various Cases in which Kings may both abdicate themselves from their Power and Authority, and be renounced and degraded by others. If the becoming Lunatick and of unsound Memory, which are natural Infirmities, be sufficient Reasons in the Judgments of all Men, for precluding Princes from their Office, as well as from the exercise of Kingly Power; there are certainly moral Distempers which do render them more incapable of Regal Trust, and less qualified for the exercise of Rectoral Authority, such as an implacable Malice to the welfare of the whole Community, or an Attachment to one Party to the extirpation of all others. 'Tis generally granted, that the entering into a Religion which the Law accounts a civil Death, doth disable a Person both from the Claim and Exercise of Magistracy; and therefore I know no reason why one should not be esteemed equal-

Resistance
justifiable
when the
Exercise of
Power be-
comes Ar-
bitrary.

Princes
precluded
from Suc-
cession, when
incapable
of exerci-
sing their
Office.

ly unqualified for Sovereignty, by having enrolled himself into the most sanguinary Order of the Papal Church, and having subjected himself intirely to their Conduct; tho in order to the remaining the more able to execute their Malice, and to compass their brutal Ends, he hath declined to assume and take on the Habit. But I shall supersede whatsoever may be muster'd from these Topicks, for the resisting and abdicating of his late Majesty; and shall justify our doing so from Principles which our Constitution and Laws do administer, and which no Man can contradict without belying their Sight and Feeling, as well as the being treacherous to the Dictates of their Judgments and Understandings. For admitting us to be, as we really are, a Free and a Protestant Kingdom, who have not only many Privileges and Rights reserved and secured unto us, and the Reformed Religion made a part of our Property, but who stand vested with a large share in the Legislation, through the Power that our Representatives, whom we ought and have a Title freely to chuse, have in the enacting and repealing of all Laws; there are three things whereby our lately departed King hath unqualified himself, both for the Claim and Exercise of the Regal Power, and which made it lawful and necessary at first to resist, and doth render it now just and expedient to abdicate him.

Owning a
Foreign
Power.

The first is, That through having dispensed with the Oath of Supremacy, which precluded all Foreign Judisdiction, and through having received the Pope's Nuncio, and Provincial Romish Bishops, he hath thereby rob'd the Crown of its brightest Jewel, namely of the having and exercising Authority and Jurisdiction over all Persons in this Dominion; and hath transferred and aliened the Regal Power of this Kingdom to a Foreigner.

The second is, That being trusted with the Regal Power, and vested with the executive Part of the Government, for the preservation of the Rights and Liberties of the People, he hath in innumerable Ways, Methods, and Instances, applied and exerted it to their Ruin and Destruction.

Setting up
a dispensing
Power.

The third is, That by reason of his dispensing with Laws, seizing of Charters, and practising upon the Freedom of those who have a Right of electing Members of Parliament, he hath overthrown the whole Legislative part of the Government, and subverted the very fundamental Constitutions of the Realm.

Instances of
Arbitrary
Power.

His whole Reign hath been a continued Invasion upon our Laws, Liberties, and Properties: He endeavoured to render Parliaments, and had actually made Courts of Judicature, Ministers of his Will, Pleasure, and unruly Lusts, instead of their being Assertors and Vindicators of our National Rights, and Dispensers of Law, Justice, and Equity. There is nothing Essential, Sacred, or Inviolable in our Constitution, which he hath not subverted as well as shaken. Our Lives, Liberties and Fortunes, have been subjected to the Will, Power, and Authority of those whom the Laws of the Land not only make incapable, but declare to be Traytors. We have not only been without Parliaments beyond the time appointed by the Law, but there have been means used to prevent our ever having one that deserved to be held and esteemed Lawful and Free. The Civil as well as Military Power, which ought to be in no hands, save in theirs who will maintain our Liberties, and defend our Persons, have been committed and entrusted to such, who judg it to be both their Duty, and meritorious to rob, destroy and extirpate us. The Ecclesiastical Commissioners were not only a body of Men erected in opposition unto, and in defiance of our Laws, but had both the whole Clergy of *England*, and our Religion, prostituted to their Arbitrary Will. No Man in *England* was secure in his Freehold, after what *Wright*, *Jenner*, and the Bishop of *Chester* had done against the President and Fellows of *Magdalen* College. We could no longer be said to have Properties or Inheritances, but what we possessed was precarious, and held by no other Tenure but that of Court-Pleasure and Connivance. The King's claiming a Right to dispense with so many Laws, enacted for our Defence and Safety, gave him a Title to dispense with all our Laws, whensoever he should find it seasonable and convenient. So that upon the whole, it was become both lawful and necessary, to recover that by Force, which had been wrested from us by Usurpation. Nor had we been worthy of the name of *Englishmen*, but had shewn our selves a degenerate Off-spring, and proved Traytors to God, our Country, and our Posterity, had we not been ready to retrieve and vindicate our Rights upon the first opportunity that should be offered unto us. Our having reserved Rights and Privileges unto our selves, gave us a Right to defend them in case they came to be invaded. And tho there were not wanting ignorant and mercenary Men, who would have rivetted the King in his Tyranny, and fettered the Subject in Slavery, by their treasonable

Enslaving
Doctrines
set up.

Doctrines

Doctrines of *Passive-Obedience* and *Non-Resistance*, yet the rational and ingenious Part of Mankind remained so far preserved from the Infection of those slavish Notions, as to know themselves to be no farther bound to suffer, than the Law had obliged them, nor tied up to any other measures and degrees of Obedience, than what they were confined unto by the Rules of the Constitution, and by the Statutes of the Realm. Yea to the reproach of too many of the Crape, the very Gentlemen of the Sword, who stood muster'd under the King's Banners, and by whom he expected to have been supported in his Invasions upon Law and Religion, were not only so far sensible of his unjust Usurpations upon the Rights and Privileges of the Nation, and of his designing the Extirpation of Protestantism and Liberty; but were also so far convinced of its being the Duty of every Protestant and *Englishman*, to resist and not to abet him, that upon this Inducement, and upon no other, they turn'd their Arms against, as well as abandoned him. Nor was there any thing whereby the King can be supposed to have been prevailed upon to forsake both the Government and the Kingdom, but a sense of his own Guilt, and an apprehension of his Demerit. There was neither Force nor Menace used to drive him from the one or the other; only the thoughts of a Free Parliament, and of what he might be found obnoxious unto, by the Fundamental Rules of the Government, chased him from the Throne, and out of the Nation. And as we have various Precedents in all Free Nations, giving countenance to what we have been doing; so no Kingdoms afford more Examples in justification of it than our own.

However, after all the Evils which this late King had done us, we are willing to acknowledg the kindness we have received from him at last, in his leaving the Nation and retiring beyond Sea. And that which is now incumbent upon us, as we would be just both to him and our selves, is to bolt the Door after him, and so foreclose his Return. Tho we were once so foolish as to trust him, notwithstanding his Religion, as hoping the King would have been too strong for the Papist; yet it were madness to do it a second time, especially after we have seen the Monarch all along too weak for the Papal Bigot. The Fault is his, in the deceiving us once; but it would be ours, should we give him an advantage of deceiving us again. We have provoked him too far, to think of laying our selves any more at his Mercy: Nor is it possible to receive any Security from him, but what he hath already falsified. The whole Kingdom is embarked too far, to think ever of retreating; and his Misgovernment during the whole time he was permitted to reign, disableth him from being trusted with Authority any more. A few little and desperate People, may (if they think fit) talk their Necks into a Noose; but they will soon find, that the Nation is not to be twattled again into Slavery. His very retreating into *France*, is a just Bar against the admitting his return; seeing it is morally impossible he should come back from thence, but under Confederacies with that Monarch, for the extirpating the Reformed Religion every where, and for the ruining of these Nations, and of all *Europe*. Nor will those Provinces and States that lent their Forces to enable us to vindicate and assert our Rights, ever suffer the King to get into a condition of wreaking his Malice upon them for their kindness to us. And should we be so far infatuated, as to reinthral our selves; it will be our fate to be neither pitied in our Miseries, nor relieved from them. Yea God himself will laugh at our Calamities, when they come to overtake us through our own wilfulness and choice.

K. James's kindness to the Nation in leaving it.

But tho *James* the Second stand unqualified, and morally disabled from being any more King, yet it is indispensably necessary we should have one, a King being no less essential in the Body Politick of *England*, than the Head is in the Body Natural. To dream of reducing *England* to a Democratical Republick, is incident only to Persons of shallow Capacities, and such as are unacquainted with the Nature of Governments, and the Genius of Nations. For as the Mercurial and Masculine Temper of the *English* People, is not to be moulded and accommodated to a Democracy; so it is impracticable to establish such a Commonwealth, where there is a numerous Nobility and Gentry, unless we should first destroy and extirpate them. This is demonstrable from all Histories extant, whether they be Modern or Antient. And either to hope for, or to endeavour to do this in *England*, were the highest folly, as well as the most prodigious wickedness imaginable. To think of precluding Kingship out of the Constitution of the *English* Government, would lay us under a necessity of excluding also a House of Peers, which for any one to attempt, would be equally as imprudent as it would be unjust. Nor is the naturalness of this Inference merely supported by the practice of the late Times, but it deriveth

Republick Principles impracticable in England.

Necessity of
having a
King de-
clared.

riveth its Light and Evidence from the nature of the thing it self. For as the very end of a House of Peers, is to be a Skreen between the Monarch and the Commons, to prevent his invading the Privileges of the People, and their usurping upon the Prerogatives of the Crown: so without our having a King, they would become not only useless, but burdensome. Yea, to shut Kingship out of the Constitution, would draw after it the Alteration of the whole Body of our Laws, which would be of ill consequence to the whole State, as well as to particular Men. There is nothing more obvious, than that the Stile and Authority of King, is so incorporated with, and woven into our Laws, that without it they are neither intelligible, nor can they be applied to the Uses and Ends for which they were enacted and made. This one of *Oliver Cromwel's* Parliaments was sensible of, and therefore advised him to exchange the Name of *Protector* for that of *King*. Which he either out of a Capricio of his own, or for fear of disgusting his Army, refusing to comply with, gave first an opportunity and advantage to his own Creatures for the deposing his Son; and secondly, paved the Way and laid it open for the Restoration of the Royal Family. And as the Government of *England* is imperfect without a King, so it is not only needful that we should cure this defect in the Body Politick, but that it should be done with all the expedition that is possible: For until then the Government can exert it self but in few of its proper Operations; nor can it either repeal ill Laws, nor enact such good ones as we want and need. Besides, this is the first means of rendring us safe at home, and formidable abroad. Were this once accomplished, Foreign Enemies would dread us, and Intestine Foes shrink in their Heads. Nor can any thing less check the intemperate and seditious Language of some, and discourage the audacious Caballings and dangerous Machinations of others.

Lineal De-
scend not
always ne-
cessary.

Now the Case that we are to discourse, falls not within the compass, nor under the regulation, of what a King and the two Houses of Parliament may do in the disposal of the Crown. The many Statutes by which it hath been entailed, do plainly shew that they have a Right to settle it. And tho they may be confined from going out of the Royal Line, yet it is evident from those upon whom it hath been conferred, that they are not always obliged to bestow it in the Order and Way that common Inheritances descend. For whereas both *Queen Mary* and *Queen Elizabeth* succeeded to the Crown, yet it could be in the virtue of nothing but the Act of Settlement of the 35 *Hen. VIII.* seeing if the one of them was Legitimate, the other could not, nor as such pretend to any Title or Claim. Yea, our Law does expressly declare, that the Prince Regnant, whosoever he be, may and can, with the concurrence of the two Houses of Parliament, dispose, settle, and entail the Crown, as shall be thought most needful and convenient. For this see *Rastal's* second Vol. 13 *Eliz. cap. 1.* where the words of the Statute are as follows.

Be it enacted, that if any Person shall in any wise hold and affirm, or maintain, that our Sovereign Lady Elizabeth, the *Queen's Majesty* that now is, with and by the Authority of the Parliament of England, is not able to make Laws and Statutes of sufficient Force and Validity, to limit and bind the Crown of this Realm, and the Descent, Limitation, Inheritance and Government thereof; or that this present Statute, or any other Statute to be made by the Authority of the Parliament of England, with the Royal Assent, is not, or shall not, or ought not to be for ever of good and sufficient Force and Validity, to bind, limit, restrain, and govern all Persons, their Rights and Titles, that in any wise may or might claim any Interest or Possibility, in or to the Crown of England, in Possession, Remainder, Inheritance, Succession, or otherwise howsoever; that every such Person so holding, affirming, or maintaining, during the Life of the *Queen's Majesty*, shall be judged a high Traytor, and suffer and forfeit as in Cases of High-Treason is accustomed. And that every Person so holding, affirming, or maintaining, after the decease of our said Sovereign Lady, shall forfeit all his Goods and Chattels.

Parlia-
ments may
dispose of
the Succession.

Instances
thereof.

In Scot-
land.

Nor was the Power and Authority of Parliament, for conveying and disposing of the Crown, ever questioned or gainsaid, till a few mercenary People about ten Years ago, endeavoured to obtrude upon us a pretended Divine and unalterable Right to the Succession: which was the more irrational, strange, and to be wondered at, seeing all the Race of the *Stewarts* after *Robert the First*, had no other Title to the Crown of *Scotland*, but what they derived from an Act of Parliament, in prejudice and preclusion of those of the Legitimate and right Line. For the said *Robert* having had three Sons and one Daughter by a Concubine named *Elizabeth More*, whom he afterward married to one *Gifford*, himself at the same time taking into

into Marriage *Eufemia* the Daughter of the Earl of *Ross*, by whom he had Issue *Walter* and *David*, Earls of *Athol* and *Strathern*; and *Eufemia* that was afterwards married to *James Douglass* Son to the Earl of *Douglass*. The forementioned *Robert* did not only upon the death of his Wife *Eufemia*, and of *Gifford* the Husband of *Elizabeth More*, take into Wedlock his former Concubine *Elizabeth More*, but obtained by an Act of Parliament, that the Children whom he had begotten upon her in Concubinate, should be intituled unto the Crown, and that his lawful and legitimate Children by his Wife *Eufemia* should be precluded and debarred. And it was heretofore the more surprising unto me, to find the Pensionaries and Advocates of the late Duke of *York* plead for a Divine and unchangeable Right of Succession, seeing all the Claim that the *Scots* Race had to the Throne of *England*, through their being descended from the eldest Daughter of *Henry* the Seventh, was from and by an Act of Parliament which vested the said *Henry* in the Crown of this Realm. For tho the fore-mentioned *Henry*, by reason of his Marriage to *Elizabeth*, Daughter to *Edward* the Fourth of the House of *York*, had a legal title to the Crown of *England* by the Common Law, yet he was so far from insisting upon and allowing it, that he chose to hold and possess the Crown in the Force and Virtue of an Act of Parliament. For as his Title by the House of *Lancaster*, was both originally unlawful, and had particular flaws and defects in it; so all the Claim he could pretend unto that way, was in the Right of his Mother, who as she outlived his advancement to the Throne several Years, so she was never admitted to the Royal Authority, nor suffered to sway the Scepter.

In Eng-
land.

But that which is more peculiarly my Province at present, is to enquire what Power and Right the Peers and Commons of *England* have in and over the Crown, for the conveying, disposing, and settling of it, in case of a Devolution, through the Throne's becoming, by one means or another, empty and vacant. And as to this, we stand provided with many and signal Precedents of the Crown's having been conferred and bestowed, as the General Councils and Parliaments of the Kingdom judged most conducive to the publick Safety and Benefit, but still keeping within the Sphere and Circle of the Royal Family and Line.

The *Saxon* Times afford several Instances and Examples in proof and confirmation hereof, if it were either needful to recount them, or if the brevity to which I am bound up and obliged, would allow me to represent them in their full and due Light, and to adorn them with the Circumstances that do belong unto and enforce them. But all the Precedents I shall produce from thence, shall be those of *Alfred* and *Edward* the Confessor, of which the latter was last, and the other the first Universal *Saxon* Monarch. *Horn* assureth us in his *Mirroure*, that the People of *England* after great Wars, Tribulations and Troubles, suffered for a long time, by reason of their multiplicity of Kings, did at last elect and chuse one King to reign over them, whom they made to swear that he should not only govern them by Law, but that he should be obedient to suffer Right, as well as others of his People should be. Accordingly *Alfred* acknowledgeth in his Will, subjoined unto his Life by *Menevensis*, that he owed his Crown to the Bounty of his Princes, and of the Elders of his People: *Principes cum Senioribus populi, misericorditer ac benigne dederunt*. And for *Edward* the Confessor, he could have no Right to the Crown, save by the Grant and Gift of the People; seeing the Claim by Descent and Common Law, was in his Nephew *Edward* the Son of *Edmond Ironside*. Accordingly all our Historians lodg the Confessor's whole Title to the Sovereignty, in his being *Electus in Regem ab omni populo*. The Power which the People of *England* had in the disposal of the Crown during the time of the *Saxons*, is confirmed to us by that noble Record which Sir *Henry Spelman* hath cited, *Concil. Vol. 1. pag. 291.* for we do there find, how that in a Parliament held at *Calchuth*, *An. 787.* it was Ordained and Enacted, *In illo Conventu Pananglico, ad quem convenerunt omnes Principes tam Ecclesiastici quam seculares, una cum Populo Terræ; That Kings should be elected by the Parliament; ut Eligantur à Sacerdotibus, & Senioribus populi: And that being chosen, they should have prudent Counsellors, fearing God; Consiliarios prudentes, Deum timentes.* And this Right over the Crown, and about the disposal of it, which our Ancestors challenged and exercised all the time of the *Saxons*, they have maintained and exerted with no less courage and vigour in every Age since the coming in of the *Norman* Race. *William* the First (who is unjustly stiled the Conqueror, as having subdued none but *Harold* and those that abetted him) did no otherwise obtain the Crown, nor ascend the *English* Throne, save in the virtue of an unanimous and free Choice and Submission of the Peers and Body of the People. *Convenientibus Francis & Anglis, illisque omnibus concedentibus, Coronam*

Amongst
the Saxon
Kings.

William
the Conque-
ror chosen
King.

Coronam Angliæ & Dominationem suscepit, saith the Anonymous Author subjoined to Syllas Tailor's History of Gavelkind. *A Clero & Populo susceptus, & ab omnibus Rex acclamatus*, say Matth. Paris and Florilegus. *Ab omnibus Proceribus Rex est electus*, says Walsingham. *Universi, hilari consensu, eum sibi in Regem & Dominum coronari consonuerunt* (saith Will. Piclav.) when it had been proposed unto them, Whether they would receive and admit him, or not? Nor did the said William only obtain the Crown by the Peoples Choice, but he was made to swear before his Coronation, that he should govern the People justly, keep and observe unto them all their old Laws, and consent unto the having such farther Laws enacted, as should be found needful for the Preservation and Prosperity of the Realm. *Se velle cunctum populum juste regere, rectam legem statuere & tenere*, says one; *antiquas bonas leges inviolabiliter observare*, says another.

Wil. II.
elected.

As for William the Second, and Henry the First, who are the two next in the Roll and List of our Kings; it is undeniable, that they became possessed of the Crown by the mere Gift and Choice of the People. For being advanced to the Throne in prejudice of, and to the preclusion of Robert their elder Brother, they could have no other Pretence, Claim, or Right unto it, but what they derived from the People, and were indebted for to Parliamentary Power and Authority. Our Writers do not only give us an account of their several Elections, and of the Oaths by which they became bound unto the Kingdom, but of the previous Conditions, Promises, and Terms, by which the People were influenced and prevailed upon, to raise them unto, and honour them with the Regal Dignity: For William Rufus having promised, *Si Rex foret* (say Eadmer and Brompton) *se justitiam, aequitatem, & misericordiam per totum Regnum, in omni negotio servaturum*; That if he could be chosen and admitted King by the English, he would in all things keep and observe Justice, Equity and Mercy throughout the whole Kingdom: He was thereupon, *in Regem electus & consecratus*, first elected and then consecrated King. And as Matth. Paris tells us, *He was in a great Council or Assembly of the Nobility and wise Men of the Kingdom, Volentibus omnium animis, with the chearful consent of them all, in Regem acceptus, accepted for and admitted to be King.* And for Henry the First, the same Author informs us, how that having called a General Council of the Nobles and People to meet at London, he promised unto them, provided he might be chosen King, *Ementationem Legum, &c.* A reformation of those rigorous Laws which his Father and Brother had obtruded on the Kingdom, and that he would frame just Laws, grounded on those of Edward the Confessor; and that he would likewise not only remit the Taxes which had been unduly exacted of the Subject, but punish such Persons as had been the Authors of them: and that thereupon the whole Assembly unanimously chose him, and appointed him to be consecrated King. And as he intirely owed his Crown to the Election and Grant of the People, so he as freely acknowledged it in his Charter (see Hagulst.) where he says, *Sciatis me consilio Baronum Regni Angliæ ejusdem Regni Regem coronatum esse*; Know ye that I am crowned King of England, by the Common Council of the Barons of the said Kingdom.

Robert excluded.

But lest any should wonder why Robert was all this while excluded, while his two younger Brothers were preferred before him, and exalted to the Throne: It may not be amiss to take notice of the Reason of it, as it is assigned by Knighton, namely because the said Robert, *Semper contrarius, & adeo innaturalis extiterat Baronibus Regni Angliæ*, had been always harsh, unnatural, and averse to the Barons of England. 'Twere an easie matter to go through all the succeeding Kings, to the very entrance of the Scots Race, and to shew how the People of England have in all Ages exercised a Right and Power in the disposal of the Crown; but this is enough for an Essay, and may serve without an enumeration of more Examples to awaken the Peers and the Representatives of the Commons of England, to claim and exert that Power at this conjuncture, which from the first Original of the Government has belonged inseparably unto them.

That which now remains to be treated of, is what becomes honest Men to desire, and what all Men have reason at this time to expect, from the Wisdom and Justice of the approaching Convention, in relation to the bestowing, conveying, and settling of the Imperial Crown of this Realm. And that the Considerations which are to be here offered, with all Humility as well as Modesty, may both stand in the clearer Light, and have the greater efficacy upon the Minds of those for whom they are designed, I shall briefly premise these things. (1.) That in the Circumstances wherein we are, through the King's having withdrawn himself, and forsaken the Government, the Crown cannot be said to go by Descent, and in the way of Inheri-

Inheritance; but the Disposal of it falls to the Body of the People of *England* in their Representatives, by way of *Cess* and *Devolution*. There being no Death, Resignation, nor Demise of the foregoing Regent, there can be no Heir, nor any plea for the Descent of the Crown to a Person under that Notion. Tho there may be all the Reason and Justice imaginable for granting and conveying it to the Person that in another case would have been so, yet there is neither Common nor Statute Law, in the virtue of which it can be now said to descend. Proximity in Blood may render a Person fit to be taken notice of by them who are to dispose of it, and Royal Qualities and Virtues may make one deserve and merit it to that degree, that it would be the highest Injury to the Nation and to the People themselves to bestow it elsewhere; but yet for all this nothing doth legally entitle to it, but the Will, Donation, and Gift of the People. (2.) That in the present case nothing can determine, limit or restrain those in whom the disposal of the Crown is become lodg'd, but their own Will guided and regulated by the Measures of what is most conducible to the Publick Good. Many things may serve to indicate and direct where it will be most for the Safety and Honour of the Kingdom to have it settled, but it is merely the pleasure of the Great Council and of the Representative of the Nation, that can authoritatively fix it. Former Acts of Settlement do only declare the Channel in which the Succession was to run by the ordinary way of Descent; but they have no legal Force here, by reason of the Dam and Stop that is in the Road and Path of Conveyance. Nor doth the Common Law, which in the want of Acts of Entail defines the order of Succession, signify any thing here farther than to remind us of Persons who would have had a just and unquestionable Claim, but for the Survivance of him after whom only they can by that Law pretend and plead. (3.) That seeing the Two Houses cannot sit in the nature of a formal Parliament, till after the Crown is convey'd and fix'd, because of the defect of one of the Members of the Parliamentary Legislative Body; that therefore it seems very disputable, whether the one of the said Houses can until then have a Negative upon the other. And by consequence, as it will become them in prudence not to interfere in their Resolves about the Conveyance of the Crown, so it will be no departure in the Lords from their own Grandeur, to consider of what force and obligation to the whole Commons of *England* the Declaration of their Representatives in that matter will be. And whether it be not more than probable, that they will own the Regal Authority to be in that Person, and there to maintain and defend it, where themselves shall convey and settle it. Now these things being premis'd, I shall as one who loveth the Welfare of my Country next to the Glory of God, to his Interest in the World, and to the Happiness of my own Soul, offer with the profoundest Submission what I judg to be in this great Case now depending most subservient to the securing Religion here, and to the vindicating it elsewhere, and to the rendring this Nation safe, opulent, and happy.

No Right by Descent in the present Circumstances.

The Parliament to settle the Crown.

As to her Highness the Princess of *Orange*, they must be Enemies to the Kingdom, who would have any thing with-held from, or denied unto her, that the approaching Convention, can in consistency with their own Wisdom, and with the safety of the Nation, grant and bestow. For how great soever she is by her Quality, she is far greater by her Merit. Had she been of a Rank never to have stood in a nearness to the Crown; yet all who have the honour to know her, would have confessed that she deserved one. But alas! tho there may be a Partner in the Royal Stile, there can be none in the Regal Power. And as she herself will undoubtedly acknowledg the Prince her Husband to be the only Person fit at this season for the latter; so she will account it to proceed from no want of deference to her Person and Vertues, if no more be conferred upon her but the Royal Title. For seeing the Sovereignty can be but in one, tho the Stile be communicable to more, Reason of State obligeth to lodg it where it may be most for the publick good. The disposal of the Crown being fallen to the People by a *Cess* and *Devolution*; the Succession unto it is not to be governed by proximity of Blood, but by weighing what is most expedient for the benefit of the Community. To bestow the Sovereign Power unto more than one person at a time, were to embarrass the Execution of it, and to make it impracticable thro the differences which may arise if two should become equally vested in it. From thence it was, that upon the constituting and creating *Philip* King in conjunction with *Mary*, the Daughter of *Henry* the Eighth, it was ordained and enacted, That the Queen might and should solely, and as sole Queen use, have, and enjoy the Crown and Sovereignty of and over all these Realms, Dominions, and Subjects, with all the Preheminences, Prerogatives, Dignities, Authorities, Jurisdictions, Honours, thereunto belonging, &c. and that no Right or Claim of Sovereignty, should be gi-

The P. of O. the only fit Person to be chosen King.

ven, come, or grow unto the said Philip, over these Realms and Dominions. But tho the Sovereign Power be not communicable to more than one, and can be lodged no where, save in a single Person, yet the Royal Stile may be imparted to more without the least inconvenience arising thereby to the Nation. And therefore when I say that her Royal Highness the Princess of *Orange* ought to have the Royal Stile conferred upon her, I do not thereby mean that she should enjoy merely the bare and naked Name of Queen, but that together with the Person to whom the Sovereignty shall be committed, she shall be named in all Laws, Gifts, Grants, and Patents, &c. and that all these shall be enacted, instituted, set forth, and made in the Name of her Royal Highness as Queen, as well as in the Name of the Person in whom the Sovereignty shall be fixt and settled. Nor is this all that her Highness may in Justice expect, but it doth become the People in deference to her Merit, and in gratitude for the many obligations which she hath heaped upon them, to settle the whole Sovereignty upon her in Reversion, in case she out-live the Person to whom that power is first trusted and committed. And as this will testifie, that the Disposal of it otherwise for the present, ariseth not from Disrespect, but from Motives of Necessity; so we may be assured, that her Royal Highness's love to her Country, is so prevalent with her, above all Considerations regarding her self, that she would be loth in the mean time, and under the great and present Exigencies, to intersept between the Nation and the Blessings and Safety likely to arise unto it, by the coming under the governing care, and Sovereign Protection of his Highness the Prince her Husband. Nay she would account it an injury unto her, and not a favour, to have the Regal Power settled in her during the Life of the Prince, and to have his Highness to be precluded from it. And as thro being vested in what I have named, she will enjoy all the Honour and Glory which accompany a Crown; so she will be only eased of the Thorny Cares, and the next to insupportable Toils, that under the present conjuncture of Affairs in the World, are likely to attend the swaying of the English Scepter. Yea her Vertues will give her an Empire, that no Parliament can bestow. And while her Husband is vindicating and defending the Kingdom, by an exercise of the Sovereign Power; she will more effectually reform it by her Manners, than can be done by a Thousand Laws. Her meekness towards all, will even teach our highest Ecclesiasticks the duties of Gentleness and Lenity; and her steadfastness in the Reformed Faith, together with an exemplary adorning of it, will prove the most Sovereign means of recovering back again the perverted from Popery, and the depraved from Profaness. And her being the best Woman, as well as the best Wife, that this or any Age can give us an Example of, doth sufficiently assure us, that she will neither covet, nor be willing to accept more, than what I have mentioned, seeing every thing beyond that, would both be a detracting from the Glory of her Husband, and to the damage and prejudice of the Community.

P. of O.
to be de-
clar'd K.
and how.

That which remains then to be done, is to declare the Prince of *Orange* King, and to settle upon him the Sovereignty and Regal Power; allowing in the mean time to the Princess, the Privilege of being named with him in all Leases, Patents, and Grants. This we owe him in point of Gratitude; nor is his delivering the Nation to be otherwise requited, than by calling him to rule and govern it. His vindicating our Liberties and Laws, deserves his being trusted with the Execution of the one, and with the Defence of both. And by how much he forbears to challenge it, by so much is his Merit unto it the greater. What he avoids claiming out of Temperance, we ought to have the Generosity to give. Nor is there any one so likely to sway the Scepter with Moderation, when possessed of it; as he who declined to snatch it, when it lay within his reach. His unchangeable adherence to what he promised in his Declaration, as a Prince; shews with what Sacredness, he will observe his Oath as a King. Nor will he ever invade our Privileges, who hath exposed himself to so many hazards for restoring of them. We owe it unto him also in point of Justice. At the same time, that it is a Gift and Benevolence, it is a Debt due unto his Vertue. He hath all the Wisdom, Moderation and Equity requisite in a King, and all the Courage and Conduct needful in a General. War and Peace are equally his Province; and he stands imbu'd with all qualities, both for swaying the Scepter, and weilding the Sword. His very Passions plead for him, and in nothing can we be kinder to our selves, than in putting him into a condition of gratifying them. The Ambition that acts him of being the Head of the Protestant Interest in *Europe*, tendeth no less to our Benefit and Safety, than it doth to his Honour and Glory. And the Resentment he retains of Injuries done him by the *French* King, will lead him not only to avenge himself, but this Kingdom also upon that

that common Enemy. And to add one thing more, the Crown ought to be bestowed upon him on the score of Wisdom and Interest. Nothing save the doing thus, will cure the Evils we have felt, and obviate those we fear, or state us in the possession of all the good we need and desire. For first, we shall hereby restore the Body of the People of *England* to their antient Right, and re-establish the Government upon its Primitive and Original Foundation. The pretence of a Divine Right of Succession, which had almost destroyed us of late, and which after two or three removes, may again hazard our being ruined, will by this means stand for ever branded and condemned. Nor will there be any cause of apprehending a storm hereafter towards the Kingdom from *Spain* or *Savoy*; when once the Nation hath, in its whole Political Body, exercised the power belonging to it, of altering and ordering the Succession, as it is found convenient for its own safety. 2. We shall hereby shut and bolt the door, against the return and re-entry of the abdicated and withdrawn King. Neither himself nor Partizans, will either hope or venture to break open a Gate, where so vigilant, magnanimous, wise, and Martial a Person stands Guardian, as his Highness the Prince of *Orange* is by all men acknowledged to be. 3. We shall hereby foreclose all Claim to the Crown, arising by the plea and pretence of an immediate Successor and a next Heir; for by the exclusion of all Right to the Sovereignty in way of Descent, there is no room left for any to challenge a Title to the Government upon that bottom and foundation. And tho it would be easie to demonstrate the supposititiousness of the pretended Prince of *Wales*, and to lay open the unnatural and horrid Imposture of obtruding him upon the Nation as a Legitimate Son; yet we shall by the Method proposed, both deliver our selves from the necessity of that inquiry, and prevent the infamy with which the King must be eternally covered upon that detection. 4. We shall by this one thing of bestowing the Sovereign Authority upon the Prince of *Orange*, more effectually secure our retrieved Liberties and Privileges, than by all the Laws with which we fence and hedge them. He that scornfully rejected the offer of Sovereignty over *Holland*, when made unto him by the *French* King, as the price of betraying and enslaving his Country; can never become guilty of invading the Rights and Privileges of *England*, when trusted with their preservation and defence. Nor will he ever abuse that Power to the Nations prejudice, which he receives and holds by its kindness and bounty. His using to say, that he cannot have so unworthy a Conception of God, nor so base thoughts of Mankind, as to believe that one Person should ever be designed by the Supreme and Almighty King, to trample upon a Society and rule over it by way of oppression; doth not only declare his knowledg of the Nature, End, and Principles of Government, but how it is repugnant to his Nature, and inconsistent with his avowed Judgment, to wrong and injure a Society either by fraud or violence. 5. We shall by this means become united among our selves, and great and prosperous at home. For as he can have no Interest either distinct or divided from that of the whole People; so he can fall under no temptation either of quarrelling with the Community, or of wheedling, using and improving one party, to the inconvenience and prejudice of another. And tho those of the National Communion, may be fully assured of their being maintained and protected in every thing which the Laws shall give them a Right and Title unto; yet no man needs to fear, that he whose glorious Aim is to be the Head of the whole Protestant Interest, will ever become so attached to one Party, as to become an Instrument and Tool of harassing and persecuting all others. 6. We shall hereby become strong both in Power and Allies abroad. For besides the addition of the Force and Opulency that will accrue to the Kingdom during his Life and Reign, by the Hereditary Principalities, Dominions, States, and Territories, that appertain unto him; all the Princes and States of *Europe*, with whom it is our Interest to be confederated, will be ambitious of becoming leagued and allied with us. His Greatness and Power, whensoever he is King of *England*, will make them covet and desire it; and his inviolate Sincerity in every thing he promiseth, will make them trust unto and rely upon it. He that in the station of *Statholder* of *Holland*, could make that figure in the world as he hath done, and be able to bring so many Princes of different Religions and Interests into an Union against the common Enemy of *Europe*; what will he not be in a capacity to effect, if he were once vested with the Royal and Sovereign Power of *Great Britain*, and of the Dominions annexed and belonging thereunto? And as he will be an infallible mean, both of extinguishing all Enmity between us and these Provinces that emulate and rival us in Trade, and of bringing us and them into a happy indissoluble Confederacy, so we may easily foresee the Advantages that will unavoidably attend

Divine
Right of
Succession
exploded.

Several
Advantages
by such a
Settlement.

attend upon a Conjunction of their and our Marine Strength. 7ly, We shall hereby become formidable to our Foreign Enemies: *France* will no longer be our dread, but our scorn and contempt; and we shall there erect the Trophies of our Liberty, as well as of our Victory; whence the Advice, as well as Pattern came of enslaving us. With this Prince at the Head of our Government and Armies, in the quality of King of *England*, we shall not only break the Chains with which that false and tyrannous Monarch would fetter *Europe*, but avenge both our own quarrels, and those of all *Christendom*, upon that haughty and usurping Prince, and reduce him within the limits from whence our late Kings help'd him to raise him, contrary to all the Rules of Policy, as well as of Justice. 8ly, We shall by this means revive the hopes, and lay a foundation for the Redemption and Restauration of persecuted and exiled Protestants: As 'twas in order to the Preservation of the *Reformed Religion* in *Britain*, that he undertook this late Expedition, wherein God hath honoured him with so great success; so there are no dangers which he will not cheerfully submit unto, and undergo, for the vindicating Religion into Freedom elsewhere, and for the settling Protestants in the quiet possession of those religious and civil Liberties of which they have been perjuriously and barbarously dispossessed. The eyes of the poor exiled *French* are upon this approaching Convention, and stand prepared to date their Deliverance and Redemption from the moment in which that Assembly shall transfer and devolve the Sovereign and Royal Power of *England* upon his Highness the Prince of *Orange*; who as he hath been already their chief Patron, Benefactor, Refuge and Sanctuary, so they look upon him as the only Person under God, destined by Heaven to be their Saviour, and from whose Compassion, Courage, and Zeal they may expect the Vindication of their Wrongs, and their Restauration to the free exercise of their Religion, without let or molestation, under their own Fig-trees and Vines.

Objections
answer'd.

The only Objection that can be advanc'd against what hath been here humbly propos'd and offer'd, is, That the settling of the Crown and of the Sovereign Power upon the Prince of *Orange*, would be to the prejudice of the Princess *Ann*, in case her Royal Highness the Princess *Mary* should die before her Husband. To which I briefly answer these six things: (1.) That where there is no Claim by Descent as in our present Case, there can be no Injury done to any: For there can be no wrong in with-holding what a Person hath no right to challenge. (2.) 'Tis too probable, and that to our great grief, that his Highness the Prince will be the shortest-liv'd of the three. His indefatigable Cares, as well as the Weakness of his natural Constitution, give us too just and doleful fears of it. Now should that come to pass, which I pray God prevent, the Princess *Ann* will receive no Injury, seeing all her Pretence is posterior to that of the Princess *Mary*. (3.) 'Tis not impossible but that the Prince and Princess of *Orange* may have Children; and then all will confess that the Princess *Ann* can receive no wrong, should she and the Prince of *Orange* out-live the Princess *Mary*; seeing if the Crown were to go in the direct Order, and in the way of lineal Descent, it devolveth upon the Children of the Princess *Mary* after her death, and not upon the Princess *Ann*. (4.) There is no great likelihood that the Princess *Ann* should out-live her Royal Highness the Princess of *Orange*; and then by settling the Crown, as hath been humbly propos'd, no damage will actually accrue unto her. (5.) There is a Benefit, and not a Prejudice, arising to the Princess *Ann* by the Method that hath been here offer'd and chalk'd out: for hereby all Claim of the present Pretended Prince of *Wales* is debar'd and shut out, which I think does more in point of Benefit arising to the Princess *Ann*, than countervail all the Damage she is capable of receiving, by the putting the Prince of *Orange* first in the Act of Settlement and Entail. (6.) There is nothing here desir'd or advis'd in favour and behalf of the Prince of *Orange*, but what we should be willing to have granted to Prince *George* in his turn. Nor do I doubt but that the Princess *Ann* is so good a Woman and so excellent a Wife, that she will be desirous to purchase so great an Honour and so real a Benefit to the Prince her Husband, at the cost of a small and little more than imaginary Damage to her self.

Some

Some REMARKS upon Government, and particularly upon the Establishment of the *English* Monarchy, relating to this present Juncture.

In two LETTERS, written by and to a Member of the Great CONVENTION, holden at Westminster the 22d of January, 168⁸.

S I R,
 YOU have been highly obliging in the frequent Accounts you sent me of Affairs, in this Great and Extraordinary Revolution. I was once very diffident, and could scarcely conceive that the States of Holland or Prince of Orange could have attempted so expensive and so hazardous an Undertaking out of pure Generosity, merely for our sakes, and for the Re-establishment of our Laws and Religion, which did both equally labour under the Pressures of an Ill Administration, and seem'd to draw towards their last Periods. I knew the States had the Character of preferring their own before any other Interest whatsoever, and the Prince had the Reputation of setting a due value upon that which creates and proportions the Value of all things else. The Enterprize I look'd upon as expensive in its Methods, and uncertain in its Accomplishment; which made me prone to believe that something more lay couch'd in this vast Undertaking, than was express'd in the Prince's Declaration: But since his arrival and coming to London, I perceive He has upon all occasions carry'd himself with that wonderful Modesty, with such an unparallel'd Care and Tendernefs of our Laws, Liberties, and Religion, and adheres so resolutely to every Particular in his Declaration, that I cannot but esteem these to be his noblest Trophies, and that which crowns those Successes which have crown'd his generous and pious Undertakings. His persisting to refer all to the impartial Decisions of a Free Parliament, to do and establish such Matters, either in his, their own, or the King's behalf, as they shall think fit, even then when Honour and Power spread their Persuasives before him to do otherwise; is so great a thing, that it exceeds all his other Glories, and strikes the Beholders with nothing less than Amazement. I do more rejoice than wonder at the unanimous Concurrence which has hitherto been maintain'd between the Lords and Commons assembled in Council, and indeed in the Wishes and Desires of all the People in general: It is what this Juncture does highly require, and what the Prince's Conduct does oblige. We are very busy here in the Country in electing Members for the Great Convention which is to sit in January, and I think the Lot will fall on me to serve for my neighbouring Borough. You know I was never fond of Business or Trouble, and truly Age seems now to have sign'd my Writ of Ease. I also always cherish'd some Cynical Notions, which made me very much slight and disregard the Honours and Flatulencies of a giddy World; but the thoughts of being one of great Planters of a Government, which shall last for Ages, and perhaps till Time has run out its last Minutes, is no ordinary thing. This thought alone has enervated my Age and baffled my Philosophy, so that you may expect to see me in London about the 22d of January next; and in the mean time, if you will favour me with your Thoughts and Opinion of Affairs, and what understanding Men do think will or ought to be the Issue and Consequence of this great Revolution, you will very considerably add to the many Kindnesses confer'd upon

S I R,

Your assured Friend and humble Servant

A. B.

The

The ANSWER.

YOURS (tho it bore an early Date, yet) came not to my hands till last Friday. I am very glad that my slender Services have prov'd upon any account acceptable to you. I never thought my self qualified to pry into the Recesses of Government, or the Privacies of a King: What I acquainted you with, was little more than what was publicly discours'd of in Coffee-Houses. But indeed such was the Management of Affairs during our late King's Supremacy, that his most private Councils prov'd generally the next day's Table-talk; for as they were shallow, so was the bottom of them discoverable to every common Eye. The Prince has perhaps with more Courage than Caution, and a greater Zeal for the Protestant Interest than Care of his own particular Concerns, undertaken mighty things for us, and run such risques in the accomplishing of them, which Story can scarcely parallel. But what the Sequel of this will be, I must leave to *Astrology*. 'Tis true, the People seem to be unanimous to a wonder, and yet there are a Set of Men in this Nation, whom nothing will satisfy, but to lord it over their Brethren: These do still labour under some Discomposures, and altho in no respect disoblig'd, yet fearing they may receive a Crush in this great Turn, do by their Sourness and Discontent rather assist and further their Fate, than anticipate and prevent it. The Protestant Dissenters are not esteem'd, by Computations which have been formerly made, to amount to more than a 25th Part of the Nation, the Church of *England* receiving all the rest. This I do believe to be true, if the Church of *England* be taken in the most large and comprehensive sense, by including all such as frequent the publick Service: But if we might suppose them in the same Circumstances that Dissenters were in at the time of this Computation made, under the Frowns of the Court and the Power of the Laws, which like so many Billows beat in against them; if thus we might be admitted to view them in reverse, I do believe their Numbers would not exceed or scarcely equal those of the Dissenting Party. There are but a very few in the Nation would undergo Fines and Imprisonment for the sake of the *Surplice* or *Common-Prayer*. The prevailing Opinion now in *England* is *Latitudinarian*: Most men are so far improv'd in their Judgments, as to believe that Heaven is not entail'd upon any particular Opinion, and that either an Episcopal or Presbyterial way of Worship, together with a due Observation of the Rules of Morality, may serve well enough to carry them to Heaven; the only Byass which inclines them to the one side or the other, being the Laws. *Be subject to the higher Powers, not for Wrath, but Conscience*, sways the Scale, and gives the casting Vote in such things as are thought indifferent. This is it which crouds the Church, otherwise the Sarsnet Hood and Lawn Sleeves might be as destitute of Votaries, as the Long Cloke and Collar Band.

*The late
Kings fond
of the E-
piscopal
Clergy.*

Which way the succeeding Government will lean, I dare not determine, but it is more than probable, that Episcopacy, in that strictness in which it has of late years been exercis'd, ow'd its Continuance, as well as originally its Being, to the King: His Power and his Purse has been liberally imploy'd in favour of the Church, and they as plentifully requited his Kindness by their Doctrines of *Jure Divino-ship* and *Passive Obedience*. So long as the King continued thus their Servant, he was in all Causes Civil and Ecclesiastical their Supreme Head and Governor; but when the King became of another Interest, and they themselves were likely to be squeez'd by the Pressures of their own weighty Doctrines, then *the Case was* immediately alter'd and *Plowden's Hogs could be no longer Trespassers*: They instantly chang'd their note, and rang their Bells backward, for they were all on fire, and likely to be reduc'd to their original Dust in a moment. Fears of Popery was first the pretence of their Dissatisfactions. This was very plausible, and seem'd once to give them an Interest in the People: but surely now these Dangers are remov'd, the Protestant Interest is likely to settle upon firm Foundations, and the Prince seems well affected to their way of Worship, and signalizes his Approbations by communicating with them according to the Rights and Ceremonies of the Church, and yet they seem dissatisfied, and are still apprehensive of Danger.

What then can be the reason that this bright Hemisphere should thus be wrapt up in Clouds and Darknes? It must needs be this, That they have lost or are likely

to lose the King and Court's good Service employ'd in all or most of the former Parliaments so freely in their behalf. This in truth was the chief Pillar of their Church; that which first built, and afterwards supported it. Tho the Prince does sufficiently approve of this Establishment in his own Judgment, yet he is resolv'd to call a Free Parliament, being the purport of his Declaration, backt with many subsequent Promises and Assurances in which the People shall have the Freedom to elect such Persons as are for the true Interest of the Nation, and not for the upholding a particular Interest or Faction. There shall be no Elections either forc'd by Power, or brib'd by Treats; no false Returns, no Committee of Affections to determine according to the Court or Church of *England* Interest; no Parliamentary Pensions nor Treats with Guineas laid under their Plates to seduce them from their honest Principles, and the Interest of their Country. The Prince abhors such Irregularities: He desires such an Assembly may meet, as may truly represent the People, to enact and establish such Laws and such a Government as may secure their Religion, Liberties and Properties, with the best Advantage and Security to the Nation that can be propos'd. And altho the Church of *England* is hereby left destitute of that unfair and irregular Advantage it firmly had from the King's Power and Assistance; yet I doubt not but this and succeeding Parliaments will enact such an Establishment in the Church, as may very well agree with the honest Desires of the more moderate and pious Churchmen.

*The P. of
O. well-af-
fected to
the Estab-
lishment
in Church
and State.*

What the Civil Government will be, is more difficult to guess at, but I can tell you what it has been, and wherein it seems defective and requires some Touches of your Legislative Skill to help it out. This I am confident of, That if the Consultations of this great Council does but produce what the Necessities of the People, and the Conveniencies which a well-settl'd State does require, the Alterations will be very considerable. 'Tis true, there is a Notion generally receiv'd by the Nobility and Gentry of *England*, that a Mixt Monarchy (just such a one as ours is, and no other) must needs be the best of Governments, and that amongst all others none could boast of those Advantages as that of *England*. This Fancy is so rivetted in the minds of the People (spread abroad and preach'd up, only to keep the People in peace, and from endeavouring an Alteration, which could not be effected without the Inconveniencies of the Sword) that I do believe all things will settle again upon their old Basis, and the Government be rebuilt with all its Irregularities. However, because I understand you are in Election to be one of those, from whom succeeding Ages must derive their Happiness or Misery, I will make use of the liberty you have given me to express my Sentiments in this mighty Affair; in order to which I will in the first place acquaint you with my Notions of Government in general, and afterwards will descend to Particulars, and to our present Case as it now lies.

Government is a Power whereby a Community of Men are kept in Order, and dispos'd to act conformably to their Natures, and to the common Advantage of the whole Body Politick. This Power is sometimes plac'd in one single Person, and then it is *Monarchy*; sometimes in a select number of the Chiefs, when it assumes the name of *Aristocracy*; and sometimes in the whole Body of the People, which is called *Democracy*. But of these three *Primitives* there are several Derivatives, Compounds, and Variations.

The first Magistracy I do allow to be grounded in Nature, and the first Magistrate to be a *Genarcha* or Patriarch, who rul'd over Families of his own Extraction and Cities of his natural Generation. It was in this sense that the Fifth Commandment was given, and it was from hence that Men grew up into Cities, Kingdoms and Empires; and therefore the Laws to regulate them ought to be such as are apt and fit to govern Families, for the preservation of their Peace, Liberties, and Properties, not to bind them to perpetual Slavery and Vassalage. So also the Submissions due from the People to the Supreme Power are in their nature filial, not servile, as proceeding rather from Love and Gratitude for Protection given, than for fear of the Rod hanging over their backs, which ought to be exercis'd only to prevent a common Inconveniency. But this Patriarchal Government continues no longer than the Patriarch holds a Power over his Family to punish such Offences in particular Persons, as might otherwise (if allow'd of) obstruct the common Interest; and to protect the whole Body and every Individual in their natural and acquir'd Rights, both from domestick and foreign Invaders. For when the natural Power of one or more in conjunction shall exceed that of the Patriarch or Father of the Family, this sort of Government is so far dissolv'd, that if they please and find it convenient, they

*Magistracy
founded in
Nature.*

they may reassume their natural Freedom, or again engage in the same Family by Pact or Promise, or else leave it, and by Compact with others submit to what Laws or Measures of living together in a Community they think fit. He that will make the natural Magistrate more Sacred than this, may at last commit Idolatry, and fall down to worship.

But this not the State of any Nation or People now under Heaven: We are all shuffled and blended together, so that we stand not originally associated to any Magistrate out of natural Duty, but out of mutual Fear of each other, which to avoid, produc'd these Civil Compacts by which the World is now govern'd. Thus being separated from our Families each Man has a right by Nature to defend himself, which supposes his primary Allegiance now due to himself. He has farther an equal Right with all others to all things necessary for Sustentation, and an absolute Right in his own Person; and having thus a *mutuum Jus* in both, he is fitted for mutual Compact with others. 'Tis certain that Nature, tho she did provide for Mankind in its tender, helpless and unexperienc'd years a natural Governor and Protector, yet being withdrawn from that Power and Subjection, it falls into a state of War; which was the Condition of the World in those Times which Historians call Heroical, when *Nimrod* obtain'd the Character of the stoutest Hunter, and *Hercules* travel'd to tame Monsters and Usupers.

The Patriarchal Government being at an end, and the People being now left in a state of War, occasion'd by the universal Right that every man had to every thing, the Government that succeeded was accordingly Martial and Warlike, and their Governors were rather Generals than Kings, and like them Arbitrary and Unlimited. In this state the Chief Magistrate was properly and originally call'd *Tyrannus*; but Lust, Ambition and Avarice being the usual Attendants of Absolute Power, did too far prevail to the prejudice of those in subjection, that both the Person and Title of such Governors in time became odious and contemptible. It was for this reason that *Plutarch* in his Life of *Timoleon* affirms, that over a Tyrant every man is a Judg, and may be an Executioner; and *Plato* in his Commonwealth delineates a Tyrant amongst his Subjects by a Wolf amongst the Flock, plac'd there rather to devour than preserve them.

But the World soon grew weary of this Course of Life, and by experience found that Compact was more apt for the Coalition of Societies than mere Power; which is the cause, That in the more civiliz'd and cultivated Parts of the Earth, this sort of Government is very rare and unusual, unless sent by the Supreme Power of Heaven and Earth for the punishment of a People for some Sins committed, that thereby they may be compell'd like the mute Fish in the Gospel, to bring their Penny to *Cæsar*, and after pay their Lives for Contribution: And it is observable that it prevails principally, and is no where else willingly allowed of, but where Idolatry and Invincible Ignorance are the National Sins.

Tyrannical
Power un-
easy.

Compact
the Original
of most
Govern-
ments.

This Tyrannical Government, or State of War, being found uneasy in many places, and more intolerable than the Patriarchal Government in which they were first engaged, and also finding that there is now no Father of the Country, in a natural Sense; the People as becoming Orphans, chuse One or More to be their Guardian, which in several Countries goes under several Denominations. Thus the People are in a state of Pupillage, and as a *Minor* cannot make a Contract to his prejudice, so we may conclude, that the People may meliorate their Condition by Compact, but cannot make it worse; and therefore it may with much more reason be allowed, that such Concessions which are made by them, and which infringe or derogate from their natural Rights should be void, than that what a Prince grants to his People out of his Prerogative (tho for their better Government and Well-being, for which alone Prerogative was first given and intended) should be null and of no validity, which some Precedents in our present Establishment seem to countenance and abet. Thus all Governments in the same degrees that they differ from Patriarchal and Tyrannical must derive their Originals from Compact, and the Governour must necessarily derive his Power from and by the mutual Consent of the People he governs; unless God does himself immediatly appoint a Magistrate, and even then the People have usually confirm'd, as in the case of *Saul*, 1 Sam. 10. So of *David*, 1 Sam. 16. 2 Sam. 2.

The Peoples
Safety the
End of Go-
vernment.

I cannot but with *Grotius* believe, that *Salus Populi est Suprema Lex*. Nor did *Junius Brutus* err in affirming that, *Imperii finis unicus est Populi Utilitas*. But on the contrary to imagine the People to be made for their King, and that a Million of Souls should be born Slaves and Vassals to the Lust and Tyranny of one Man, who by nature

ture is no more than their Fellow Creature, made of the same mould, and standing upon the same level with themselves, is nonsense and directly contradictory to the true notion of Government it self. In all States and Kingdoms whose Government is by Compact, the King cannot be supposed to be any thing more than an Officer, elected and appointed by the People to preserve the Government; and therefore the People must necessarily be supposed to have still a Reserve of Power in extraordinary Exigences above the King. *Quicquid efficit tale est magis tale.* Their Concessions cannot extend farther than for their own preservation; and when that ceases, the Grant determines. Our General and Original Rights cannot totally be swallowed up by any Compact that can be made to settle Liberty and Property, neither is all that was Natural now made Civil; wherefore that old Law was but old Reason, *Quod Populus postremum jubet id ratum esto.* Upon this Account the People in notorious cases, do themselves become the Accuser, Judg, and Executioner; it being but reason that in such Cases they should be allowed this Privilege: for as every man is the best Judg of his own health, and how such and such Meats and Medicines assist and help the health and vigor of his Body; so in the Body Politick, the People must be Judg how this or that Governour or Law agrees with their Constitution, and contributes to their Health, Peace, and Welfare. In the 17th of *Deut.* and the 14th v. God leaves the Election of a King absolutely to the People, and puts it into their choice whether they will have a King or not; and whosoever they pleased to set over them (provided he was chosen from among their Brethren) should be their King. Thus before *David's* Inauguration, *The People made a league with him,* 2 Sam. 5. 3. And by this they restrained and bound him up as they thought fit. And he who in any settled legal Government arrogates to himself any other Supremacy over all or any part of his Brethren, other than what is immediately appointed by God, or claimed from the People, breaks those Bonds and Limits which they have set; and is, as Civilians distinguish, *Tyrannus exercitio*, tho not *Titulo*.

A Supreme, Absolute, and Arbitrary Power, is essentially necessary in all Governments whatsoever, whether *Monarchical, Aristocratical, or Democratical*; in respect of which, these three distinct Species differ no otherwise than as a Guinea from 20 Shillings, or 40 Sixpences, which put together are equivalent one to the other: Thus the Supreme Acts of all Governments are the same, for no State can go higher (nor ought to descend lower) than 1st, to be able to redress a grievance, by making or repealing a Law. 2ly, to have the power of War and Peace. 3ly, to judg of Life and Death: and 4ly, to fix all Appeals in it self. So also if a mixture be made of these three Governments, yet it makes no change as to the product of a Supreme Act; for they who limit one another, are yet Copartners, and do the same thing together which one alone doth Legislatively: And as the prudence and foresight of the first Founders of these various Constitutions, saw any advantage or inconveniency peculiar to the People, Place, or Time they liv'd in, so they accordingly made various and sutable Provisions and Laws, to assist the Good and to divert the Evil. Upon this account there are few Governments but have some things woven into their Constitution peculiar to themselves. In *Poland*, where the Monarchy is elective, and the Prince bound to observe the Laws, any Gentleman may safely and freely accuse his Prince. In *Arragon* the Chief Justice has a Tribunitian Power. In *Venice* the Duke stirs not out of the City without leave, and is made so much greater than any of the rest, only to allay the growth of Ambition in any one besides. In the form of Transactions, most do follow the Plurality of Suffrage, but in several ways: In the Senate of *Venice* in many Cases there must be a Concurrence of three parts of four. In the Conclave of *Rome* at the Election of the Pope, two parts of three must concur: In the Consistory the Pope alone carries it against all the Council of Cardinals. In the Convention in *Poland*, *Potior est Conditio Negantis*, One Negative hinders all proceedings in the most important Affairs. In *Holland* the States General of the Provinces have but seven Votes in all, and these obliging according to the Plurality of Suffrage; but the number of States sent to manage the Interest of their single and Provincial Votes are unlimited, and as the respective Provinces please to delegate; wherefore their Votes may be more properly termed local than personal. But with us in *England* Votes are merely personal; for as we represent not Provinces or Places distinctly Supreme, but mixtly together, so the odd Vote carries all; by which it may happen that one man may make or destroy the best Law that ever was. From these particulars you may collect the varieties that are in Government, instituted according to the different Notions of the first Founders, and the Circumstances and Temper of the People govern'd.

Absolute Power necessary in all Governments.

Happiness
of a well-
constituted
Monarchy.

Monarchy vested with the most absolute Powers that either Concession or Conquest can create, I esteem the best of Governments; but that only happens when it represents God more in his Justice than Singularity, and when Mercy is the Ornament as well as Power the Supporter of his Throne. In such a Government under a Prince, whose Goodness and Wisdom runs in equal Parallels with his Power and Greatness, the People are happy and secure, whilst their Neighbours live in fear and subjection; his Councils are private, and the Execution of them sudden, without which no great Enterprize can be successful: To such a King is applicable the Answer which was made to this Question upon *Pasquil* in Rome, *Quid est Prerogativa Regis?* the Reply being, *In Optimo Rege nihil nimis, in Malo omne nimium*. But to take a view of this Government in its dark side, under a Child, Fool, or vitious Prince, nothing carries such an aspect of Horror and Misery to the poor Wretches who live under it: Wherefore, if we consider that the generality of Men, when let loose to their natural or rather corrupted Inclinations, are much more apt to lean towards Tyranny and Oppression, than to such Methods as may promote their Peoples Happiness, I think this sort of Government by no means desirable. It does at the best but keep the State which is directed by it in a fluctuating and unsettled Condition. It sometimes in the Reign of a warlike and ambitious Prince, like the Sea in a Storm, rolls in with Rage and Fury upon a neighbouring Shore, and again under the Tuition of another who is of a weak and pusillanimous Spirit, it moulders and gives way to the loss of all its former Acquisitions, so that the Ballance of the Kingdom is never at a stand, the Scale moving sometimes upwards, and anon down again, and the People consequently kept in a rolling, unsettled Condition, poor, miserable and uneasy.

Aristocracy. *Aristocracy* is compos'd by a select number of the Chiefs of the People to govern the rest, and stands like a Moderator between the Excesses of Kingly and Popular Power: But this Mixture often produces Monsters, and as the greatest Storms are form'd in the middle Region, so the bloodiest Commotions are rais'd in this State, tho most temperate.

Democracy. *Democracy* does properly and naturally reduce all to equality, and most carefully consults the Peoples Liberty and Property; but withal it obliges every man to hold his Neighbour's hand, and when it falls, it does with great difficulty recover its feet again. 'Tis true, that Monarchies are more quick and expeditious in their Attempts, but Commonwealths as they are more slow, so they are more sure; and in regard that their Counsels are more publick, so are they generally more honest and justifiable. Commonwealths are not like Monarchies subject to the inconveniences of evil Council or Corruption, where the Prince's personal Folly or Ambition, the Commands of an imperious Wife, or the Flatteries of a fawning Courtezan, may in a minute overthrow a People and Kingdom. We have found it by sad Experience practis'd at home, where a Chamber-maid has prevail'd with her Mistress, and she again by a Kiss or Smile with the Monarch; and we also owe all our present Discomposures to the Directions of a zealous Priest, manag'd by the Mediation of a commanding Queen. We are also sufficiently sensible of the great Unhappiness that befalls a People living under a Monarchy, in having their Prince of a Religion different from themselves; but this Inconvenience can never befall a Commonwealth, it being impossible to change, alter, or introduce any new Religion by such a Government, but such as the greater part of the People embrace, and are willing to receive. But in Monarchies the King being but one Person, may in that respect be more easily and probably seduc'd, both to his own and his Peoples irreparable Injury.

The Eastern Countries which lie under the Course of the Sun, as *Persia*, *Turky*, *Africa*, *Peru*, and *Mexico*, are most dispos'd to Monarchies; in which latter Quarter of the World the People are better govern'd by the *Spaniard*, who are by fits in the excesses of Kindness and Cruelty, than by the *Dutch*, whose Government is of a more even Temper. But in *Europe* and nearer the Pole, the People are dispos'd more to Republicks temper'd by fundamental Laws. *Nec totam Servitutem pati possunt, nec totam Libertatem*. Sir William Temple, whose insight in the Constitutions of States and Kingdoms may deservedly give him a decisive Vote, tells us, That *Monarchies* do indeed seem most Natural, but *Commonwealths* the more artificial sorts of Government; which was but a modest way of giving his suffrage for the last, for Art always corrects the Defects of Nature, and polishes it up to a greater Lustre. But when all is done, we find it experimentally true, that all Governments, like all sublunary things besides, have their Defects: Nature in every part is sick, and therefore can find rest in no posture: Human Laws grow out of Vices, which gives to every Government a tincture of Corruption.

That

That the Government of *England* was originally and always under the same Constitution that now, or of late it did appear to be, I cannot conceive; tho Sir Edward Coke, and some others, do seem with much earnestness to contend for it. I am of opinion, that like *Epicurus* his World, it is grown by Chance and Time to what it now is or lately was, by various Concussions and Confluence of People, Interest, Factions, and Laws; like so many Atoms of different Shapes and Dispositions, springing from mere Accident in several Ages: for where there are Men, there will be also Interests, which create Factions and Parties; and these, as they prevail, or are suppressed, produce Laws for or against them, which so far alters the former Government, as new Laws are introduc'd in the room and place of old ones, which were thought fit to be repealed and abrogated.

The Government of England the same in all times.

Altho some Governments seem to be built upon firmer and more unalterable Foundations than others, yet there is none but ought to adapt it self to the Circumstances and Disposition of the People govern'd; and as these do daily change, so ought the Government to shift and tack with them, that it may the better hit with the Necessities and changing Circumstances of those for whom it was first instituted.

That Property is founded in Dominion, I look upon to be a most undeniable Truth; for naturally in the same degree that a Man has a Right and Possession in a thing, he must necessarily have the Power and Dominion over it. To argue or defend the contrary, is as great an Absurdity in Nature, as to say the Fire must be hot, and yet not burn such Combustibles as are cast into it. It is upon this account that the Grand Seignior is so despotick in his Government, for by the Constitutions of that State, all Lands are in the Crown, none hold longer than during Pleasure, or for Life, and then their Lands revert to him that gave them. For the same reason, in the days of *England's* Ignorance and Poverty, when Arts and Learning were strangers to the Land, and the People were scarcely removed from their primitive Estate of Nature and War, when every Man had a universal Right to all things, and no Man could by a peculiar Property pretend to a Possession longer than his Sword and Bow could maintain it; then, I say, were our Governors like Generals, absolute and unlimited. 'Tis true indeed, we have some dark shadows of Laws and Councils then in use, which our Governours thought fit, as they saw occasion, to make use of; and we also find the People sometimes dissatisfied, treating their Magistrate with much roughness and ill usage upon his Male Administration: yet this does not at all argue that their Governours were limited and bound up by Laws as now they are. These things are all practis'd in *France*, *Turky*, and the most Arbitrary Monarchies in the World. Without Laws and Methods, such as these, one Man is not able to govern Millions; and therefore *Moses*, who under God was Absolute and Arbitrary, was necessitated to appoint certain Rules and Methods, and to admit of others into the Government with him, as Assistants, by their Counsel and Advice, the Work being too great for one Man to discharge. It was from the King's absolute Property in the Lands of *England* (which in those Times none could pretend to but by and through him who held the Sword) as well as from his Power over the Laws, that our old Tenures sprung of Knight-service, Serjeantry, Escuage, Socage, Villenage, &c. Then were all Tenures *servile*, and all Persons held mediately or immediately from the King, which our Law-books tell us we still do; but there was a vast difference between our then and present Holdings, the first being by actual Services paid, these now being only Nominal and Titular: To hold in Socage is by the Service of the Plow (as almost all Persons are said to do) The Tenant was in old Times actually bound to plow the Lord's Lands; in consideration of which Service, he granted to his Plowman, instead of Wages, to hold another piece of Land to his own proper use. But now, tho the Tenure does nominally remain, yet the Service is absolute; every Man being now become, by the circular motions of Chance or Providence, his own Lord, and his own Plowman: His Property and Possession makes him the Lord over those Glebes which his Necessity (derived from his Ancestor *Adam's* Transgression) makes him Till.

Property founded in Dominion.

Those Governments which succeeded the Patriarchal, were all Military; all People being then left by Nature in a state of War: but some Countries ripening into Prudence and Knowledge sooner than others, they also sooner betook themselves to Compact, and to such Methods of living, as might be for their common Advantage. Amongst these, *England* was none of the earliest Reformers, but continued long after *Greece* and *Rome*, in that natural State that the first Fathers of Families left it: And there was reason for it, in respect it was an Island, and (in those

Military Government succeeded to Patriarchal.

Times, when Navigation was in a great degree a stranger to the World) not so apt for Commerce or Correspondence with other Countries which were more civilized; they had then no Government but what conduc'd to War, and no other King but a General.

England in
Cæsar's
time how
govern'd.

Cæsar in his Commentaries tells us, that he found the *Britans* poor, ignorant, and destitute of Laws; but he also gives them the Character of a People dispos'd to War, *Britannos in Bello promptos & in Armis expertes*. All things (as in the state of Nature) were in common, even to their Wives and Children: But the *Romans* having given them a taste of the sweetness and advantage of Government, they soon after began (as *Tacitus* in his *Annals* acquaints us) to make Applications to their General to protect and defend them, by his Power and Strength, in the peaceable enjoyment of certain Proportions and Allotments of Land against all Invaders: In lieu of which Protection to them and their Heirs, they promise and swear to him and his Heirs certain Services, together with Homage and Fealty. With this Notion of *Tacitus*, *Bede* seems to concur in the 4th Book of his History, where he says, That Generals and Kings were amongst the *Britans* as terms Univocal, for Kings went always out to battel in times of War, and in Peace exercised the Legislative Power at home. And *Ammianus* in his 15th Book is more plain and positive, for he tells us, That *Britanni nulla separali fruebantur possessione, nisi Principis concessu & potestate defendatur*.

From hence it may be reasonably allowed, that *England* was first governed by an absolute Power, not from the election of the People, nor by Conquest, but from the Temper, Disposition, and Circumstances of that Age of the World in which most Countrys lay under the same sort of Government, and more especially by their ignorance of better Methods; which continued longer in Islands, by reason of the difficulty of Commerce, than in Continents where a Correspondence was then more easily maintained. It is undoubtedly from this Bottom, that the People of *England* are still supposed to hold all their Lands mediately or immediately from the King; and 'tis perhaps from hence that so many Commons and Wafts still remain uninclosed, and that Waifs, Strays, Wrecks, Wafts, and all other things, in which no Man can lay a particular Propriety, are reputed to be in the Crown.

Upon these reasons I conclude, that the Property of all the Lands here in *England* being originally in no particular Person, must necessarily (as the Law still is in such Cases) rest in the King, or those that held from or by his Power, neither had or could have any Right against that Power by which they held, but only against others that were in a level with themselves.

How many these landed Men originally were, or what separate Proportions were allotted to them, whether the quantity of a County, Hundred, or Tything; or whether their Allotments were according to the largeness of their respective Families, or their Prince's Favour, I cannot say. But these Proprietors were probably the *Pares Regni*, or such as afterwards, by the growth of Laws and the removal of Ignorance, became by a settled and uncontrollable Right, the Peers and Nobles of the Land; and having by their Princes permissive Favour long enjoyed their Dignities and Possessions, they at last wrought them up to an Establishment by Law, insomuch that what was held before *ad voluntatem Domini*, is now made Hereditary, performing only some small Services and Acknowledgments to their King or General, some whereof were payable in times of War, as Knight Service, Escuage, petty Serjeantry, and grand Serjeantry; others in times of Peace, such were Burgage, Villenage, Socage, Homage, and Fealty.

Thus did a part of the People first twist themselves into a real Property in part of the Lands of the Kingdom; and as the Prince proved kind and liberal, so did the numbers of those Proprietors increase, and their Properties grew more strong and indefeasable, and so consequently their Power and Dominions: but the Prince on the other hand grows proportionably poorer and weaker, both resembling a Boat which rises and falls with the flowing Element that bears it up. After this manner the Lords grew daily richer and stronger, till they had in a great measure by their Acquisitions strip'd the Crown of its chiefest Embellishments, and invested themselves in much the better share of the Lands of *England*: And their Power grew with their Property to that degree, that they who were originally but Servants to the Prince, became now Masters of the Nation. This, King *John* to his sorrow was sufficiently sensible of in his Barons War; and it was from the Power of the Nobility alone that King *Henry* the Seventh did receive his Chaplet as well as Crown. He was a wise Prince, and from hence took an occasion of Jealousy, that
the

the same Powers which rais'd and plac'd him in the Throne, might pull him down again and lay his Glories in the Dust. To prevent therefore all Dangers which might arise from their growing Greatness, he first procures a Statute to be enacted against Retainers, that the number of the Followers and Attendants of Noblemen might be retrench'd; for they did so far indulge the Vanity of a large Retinue in those Times, that their respective Trains were sufficient for a Sovereign Prince's Guard. In the next place he procures the Statute of Fines to pass both Houses, whereby the Nobility got a Power (which by the Common Law they had not) to cut off Entails, and thereby to sell their Estates to the best Purchaser. Before this Statute, an Estate in a Nobleman's hand might in some respect be said to be in *Mortmain*, for by the Intail it was so bound up in the Family, that it grew almost irremovable; and thus having a Power to purchase, but not to sell their Possessions, consequently their Power grew daily greater, without a possibility of Diminution. But these Entails, as they were injurious to Trade and Industry, so by their Consequences they were dangerous to Regal Authority, and therefore this Device was contriv'd to prevent both these Inconveniencies: And it did indeed prove very effectual in divesting the Nobility both of their Property and Power; but at the same time it open'd a Door to the Commonalty, and gave them free access to that Property and Dominion which the Nobility did by degrees part with. Nor did they neglect to improve this Advantage they had got by Diligence, Industry and Frugality, for in process of Time they wound themselves into the better Share of those Possessions which were first derived from the King to his Nobles, and from them thus to the Commons of the Nation.

The Effect and Consequence of these Acquisitions, made by the Commonalty, were discover'd and fear'd by King *James*, but not felt till the Reign of King *Charles* the First, who by an imprudent Contest with *This* Superior Power, was first depriv'd of his Crown, and afterwards of his Life. The yearly Rents of *England* (besides the accruing benefit of Trade, which is altogether in the hands of the Commonalty) amount to fourteen Millions *per annum*. Of this the King and Nobility both together hold not above one Million at the most, the King's Revenue being principally made up by the Excise and Customs, not by the Rents of Crown Lands; so that there remain thirteen Shares of fourteen of the Lands of *England*, and consequently a proportionable share of the Power in the Commons. But the Constitution of our Government, as it now stands, placing the Dominion in the King, whilst the Property is in the People, does in this commit a sort of Violence upon Nature, in separating thus the Soul from the Body, the Power from the Possession: This it is which causes these frequent Distempers and Convulsions in the Body Politick; for Power is a sort of Volatile Spirit, which cannot subsist without a proper Vehicle to give it a Body; and this must be Possession, from which if it be once separated, it immediately evaporates and disappears.

The yearly Revenue of England.

Having hitherto trac'd the Government of *England* in its Originals and Procedures, I will further take the liberty to advert some Particulars as they seem now to stand in its present Constitution. And in the first place, I cannot think it so happy and well-compos'd a Government, and so aptly suited to the present condition of the People as most Men endeavour to represent it; for it seems in its Frame and Nature to be set to factious Interests and Dissensions, and thus it has been ever since the disunion between Property and Power. The Court and Country Interests are no new nor unknown Terms to us, and have been managed and upheld by their respective Votaries (tho in some Kings Reigns with greater Spirit and Animosity than in others) ever since, and for some time before the Barons Wars. The People have got the Possession, and the King is entrusted with a Power and Prerogative over it, or at least with so much as may prove prejudicial to it. This naturally creates Fears and Jealousies, lest at any time the Prince by his Power should invade their Properties, and abridge their Liberties; upon which account his Prerogative is the *White* they level at, esteeming it rather their Terror than their Security, for which it was at first given and intended: and therefore when the People find an opportunity, either by their Prince's Weakness, Folly, or other unhappy Circumstances, they have usually made Breaches upon this Bulwark of the Crown, and by such Sallies and IncurSIONs have got ground and advantage towards the farther securing of those Liberties and Properties they with so much Diligence and Reason endeavoured to provide for. So on the other side is the Prince jealous of his People, and is always fearful that they should snatch this Rod which he holds over their Backs out of his hand: And to obviate this Evil, he is not without his Counter-

Counter-designs also, and therefore spares neither Money nor Power in the elections of Parliaments and Juries, to obtain such Persons to be return'd, as for a Mess of Pottage will sell their Birth-right, and by advancing his Prerogative, and lengthening his Scourge, are willing to ruin and undo their Country: And so it generally falls out, that when this Power happens to fall into the management of an haughty daring Spirit, it breaks in upon the People, and endeavours to get again by Force, what his Ancestors had given away by Flattery. Thus there is always a Tide of Ebb or Flow, the Scales rarely or never standing even between the King and his People; and indeed the Constitution of our Government is such, that Murmuring and Dissensions do naturally spring from it: the Ground is dispos'd to produce such Weeds, we are always engag'd in a sort of Civil War, and in this respect continue still in the same State in which Nature left us. *An House divided against it self cannot stand*; every Man has enough to do to defend his own from Domestick Invaders: and whilst this Root of Division is suffer'd to grow at Home, it's impossible to do any thing that's Great abroad; every Design is poyson'd with a Jealousie in its Cradle, and it is enough to make the People suspect it a Snake (tho the Skin and Flowers in which it lies be never so plausible and pleasing) if the King does but hand it to them. From hence it is that our Government always totter'd, twice fell down, and now lies in its primitive undigested Chaos; and he must be a greater Architect than perhaps our Nation can afford, to warrant its standing above three ordinary Reigns, if it be rebuilt upon its old Foundations. An Expedient to prevent this Inconvenience, will be a proper Subject for this great Convention.

Another thing not well consistent with the Policy and Government of *England*, is the exceeding largeness of the Revenue of the Crown. In *France* indeed it is six times greater, that King being reputed to have twelve Millions, and the King of *England* but two: But we see the miserable Effects of it, in the extreme Poverty and Vassalage of his People. 'Tis true, the Kings of *England* once had more, for they had in effect all; but then the People were but one remove from the state of Nature, and the Possessions are now got into the hands of the people, which they will be loth to part from, so that the Case is much alter'd. Whatsoever the Government of Heaven may be, yet on Earth in one State there cannot be two Equals, one must submit and the other must govern, or else there will be a constant War; and while the King has so great a Revenue as to be able to maintain a standing Army, there still remains so much of this Equality as will promote and maintain such Differences as ought by no means to be allow'd of in a well-constituted Government: But moreover, the People by the present Constitution, are sharers with the Prince in the Supreme and Legislative Power in Parliament, and 'tis by them that Grievances must be redrest. It ought therefore in every well-constituted Government to be provided for, that this Supreme and Legislative Power may frequently, if not always, be in a capacity to enact and order such things as tend to the peoples Benefit and Security; but in this our Government is defective, it being in the Prince's Power (as our Lawyers have generally determin'd) to keep off Parliaments as long as he pleases. And how is this Defect remedied? Only by another, which on the other side they subject the Prince to, which is, by keeping him poor, that so his Poverty may necessitate him to call frequent Parliaments. Thus by a mutual lameness or infirmity on both sides, the Prince and People are become equal Matches, both Cripples, not able to go forward in any great Enterprizes abroad, but to lie struggling with each other at home.

Crown Revenues in England heretofore.

King *Henry* the Fifth had but 56000 *l. per annum*, and Queen *Elizabeth's* whole Revenue was but 160000 *l.* But some kind Parliaments (and such they usually are to excess, upon the first accession of a King to the Throne) either brib'd by Smiles, or flatter'd by Hopes of private Gain, have thought fit to fetter the Nation by advancing the Revenue to about two Millions *per annum*: so that now there is little hopes of meeting with those Advantages and Opportunities of tacking their Grievances to a Money Bill, which formerly they us'd to do; tho in truth, even then the State was in a dangerous Condition, that could not have a Remedy at hand upon every Disturbance and Malady which should happen. This I think may not improperly be esteem'd a thing worthy of your Thoughts to find a proper Expedient to redress it.

Another Particular which I take to be one of the greatest Solecisms in Government imaginable is, where the most absolute and supreme Power is yet without a Power to remedy and redress the peoples Grievances: Thus it has been for many Years

Years adjudged to be by the Interpreters of our Laws and Government, the Judges. And to illustrate this by an Instance; suppose the People are agriev'd, and want a Law to set them right; the King has no Power to make it of himself, and till he thinks fit to call a Parliament, the People must still continue subject to their Government: But perhaps the King's Interest (which is unhappily divided from the Peoples) forbids this Expedient; What shall be done? Why then let them stay and be ruin'd, till the King wants Money, which as the present Establishment is, will never be. But suppose a Parliament is called, and they in their proceedings happen to fret upon the King's Prerogative, a Favorite evil Counsellor, or some other Interest that the King has a mind to promote and protect, tho never so opposite to that of the Nation's, why then their Supreme and Legislative Power is not worth a Rush; for the King, tho he has no absolute Power himself, yet has a Power above this, to destroy it by a Dissolution or Prorogation when he pleases, and so like the Cat in the Manger, can neither eat Hay himself, nor suffer the Horse to eat to whom it belongs. This seems contrary to all the Rules of Art and Nature, and more unintelligible than the Doctrine of the Trinity or Transubstantiation; for here the Supreme Power is subject to an Inferior, and the King who is *Minor Universis*, yet is also *Major* and Superior to them: That Power which was given for the protection of the People, is their Destroyer, and the great and weighty Affairs of the Nation become subject to the Passions and Humors of a single Person. This I think I may safely affirm, That all Governments are built upon wrong Bottoms, where there is not a Supreme and Absolute Power, which may without controul, and upon any sudden Occasion or Emergency, alter, create, or repeal such Laws as shall be thought by them necessary for the Peoples good. Defects in most Governments.

Another thing that has been very incongruous and disagreeable in our Establishment is, That the Election of the Judges, and consequently the pronouncing of the Law, should be in the King's power. If indeed he were a Third person unconcern'd in point of Interest, this Method would be more tolerable; but being one that so often sets up an Interest different from that of his People, and is subject to be seduc'd by the evil Counsels of a Confessor, Miss or Favourite, and the Peoples Rights hanging wholly upon the Lips of these twelve Men in Scarlet, it is most fit they should be chosen by them who are chiefly concern'd, and for whose Benefit and Protection both the King and Laws were first made and intended; otherwise that very Prerogative, which was given to the King only for the better enabling him to act for the benefit of the People, may be (and often is) set up against them. It is contrary to all Rule, that in any Controversie a Man should be Judge in his own Case; but he in effect is so, who has power to make or unmake the Judge at pleasure. Nor can this Defect be well remedied, by granting their Commissions *quam diu se bene gesserint*: This will only oblige a greater care in the first Choice, that they may be such as in their Principles will stand firm to the King's Interest. The Honour and Income of a Judge to one that knows not how otherwise to live, is a violent Provocative; it is a sort of lawful Bribery upon him to pursue his Maker and Destroyer's Commands, tho against all the Rules of Justice and Equity; *Self-Preservation* is his Warrant, binds him to a Compliance, and makes him think it more allowable to break his Oath, than to destroy his Honour, and the Interest of a young Favourite who makes Hay with great diligence whilst his Sun shines. Inconveniences attending Kings naming of Judges.

I have often wondered at the unjust Censures of some in saying, that our late King so often and so notoriously broke his Word and Promises to his People, in not governing them according to Law. For Instances, they urge his dispensing with Statutes, and his hard usage of the Gentlemen in *Magdalen* College; in both which I conceive he committed no breach of his Word or Promises, if they be taken strictly and in a literal sense. This I think may easily be granted if it be consider'd, That the present Laws and Constitutions of *England* are such as do undoubtedly give the King a Power to make the Judge, and to the Judge a Power to pronounce the Law. What he does judicially affirm, is Law, and becomes from thenceforth the strongest Precedent; the last Judgment being always esteem'd the surest and best Rule to go by. Now the King in both these Transactions, neither made or turn'd out any Judges, but in such Methods that former Judges had pronounc'd Lawful; nor did he do afterwards any thing either in the case of *Magdalen* College, or the dispensing Power, but with the Opinion and Concurrence of his Judges, being the Method that our Establishment and Laws in such Cases do direct. Defects in the Law.

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How the
Judges are
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be corrup-
ted.

There is also a great Cry against the late Judges, for giving their Opinions, and pronouncing Judgments contrary to the Laws of the Land ; and no other Fate must be their Reward, but that of *Tresilian* and *Belknap*. It does, I must confess, seem very reasonable, that Men, who by their Honour, Oaths and Rewards, were bound indistinguishably to administer Justice, should smart for those Delinquencies by which so many hundreds have been ruin'd and undone. But in the first place, let me know how a Judg can give his Opinion contrary to Law, whose very Opinion judicially given, by the Constitutions of our Government, is Law it self, and shall be deem'd a stronger Precedent in the Point, than any other formerly given. And, secondly, if Judges must suffer for giving Sentence contrary to former Judgments, there is scarcely a *Term* passes even in the best of Times, but there are Offences committed by them of this kind. How ordinary is it for a Judg to give his Opinion in common Cases contrary to his Brethren on the same Bench, and for one Court to reverse the Judgments of another ? And how full are the Law Books of Judgments and Opinions directly contrary to each other ? The Law is not Mathematically demonstrable, it is a Science which depends upon the Judgment and Opinion only of those that are Learned therein, which we often find various and uncertain. Is not a Judg sworn to act and determine according to his Opinion only ? and who can pretend a Power to direct and rectifie it, or to judg whether the Sentence given was not according to his real Judgment, since none can know his Heart and Thoughts but God ? And suppose it could be prov'd by demonstration that his Sentence or Opinion was not Law, this may proceed as well from his want of Knowledge as Honesty ; and what Law is there to punish a Judg's Ignorance or Mistake ? 'Tis hard that Men should be deem'd guilty of a Transgression where there is no Law, or condemn'd to punishment where there is no Transgression. No, no, tho our King was misguided, and our Judges were corrupt, yet it is not at their doors we must lay our Misfortunes, but to the weakness of our Government, which gives a Loose to these Inconveniencies, and which pins the Justice of the Nation on the Frailties of a single Man in so arbitrary a manner. Opportunity makes a Thief, and these Meshes in the Government tempt the Ministers thereof to slip through sometimes, when a Bait lies on the other side to invite them to it. It is from this Root that all our late Miscarriages sprung : We suffer'd much, and yet it was all but little if compar'd to that which was likely to befall us, had not Providence snatcht us by a Miracle from the Jaws of Misery ; and as it has deliver'd us from the evil Administration of Law, so in some things I wish it would rescue us from the Law it self, and so far change it, that for the future it may be no more subject to such Shams and Delusions, nor in a capacity thus to become an Accessory to its own Death.

Law defective in
many cases.

It seems farther very incongruous, That where Government is made up of two different Interests, as here it is, the absolute Power of Peace and War should be only in the King, whilst the Power of maintaining it continues in the People : For if the King should be led aside by a private Interest, and should refuse to make War in a time when perhaps the Safety and Honour of the Nation did wholly depend upon it ; What a condition must the People then be in ? Put the case, that before this our late but seasonable Deliverance, the King, in whom this Power did reside, should have open'd the Gates of the Kingdom, our Harbours and Strengths (which are to protect us from Foreign Invaders) to a *French* or *Irish* Army ; who durst lift a hand to stop this Inundation of Tyranny, without incurring the penalty of a Traytor ? Nay they must farther be call'd Friends and Allies, even whilst they pillage our Houses, and hold their Knives to our Throats. This Branch of our Laws serves to cover the landing of a Foreign Power, and so long to cherish and keep it warm, till like the Serpent in the Fable, it at last stings the improvident Benefactor to death.

Elections
for Mem-
bers of Par-
liament
need regu-
lation.

Another thing which highly requires your Regulation, is the Elections for Parliament. 'Tis a great blemish to our Government, that such whose Place gives them the Title of *Founders of our Laws*, and *Preservers of our Liberties* ; and whose Reputation for Principles of Honour, Honesty, and Prudence, should be beyond Assault or Censure, must yet be expos'd to a necessity of doing such things as are really mean and scandalous, as well as expensive, before they can get into a capacity of doing their Country Service : For if such things be not done, some Pensioner from Court bids higher, justles him out, and gets thereby into a Power to put to sale both the Laws and Liberties of his Country, which he is willing to barter for the hopes of some Court Preferment, and the *Euge* of his great Master. In old Times no Person

had

had an Electing Vote in the Shire, who had not a Freehold of 40 s. *per Ann.* but I could easily demonstrate 40 s. then, to be Equivalent in value to 40 l. now; for by the discovery of the Western World, Gold and Silver is to that degree increas'd. Now if the number of Electors were reduc'd to those only having Freeholds of 40 l. *per Ann.* these lavish Expences would certainly cease, and the Electors, tho fewer in number, would be less apt to be led aside by such low and indirect means. There are also great Irregularities in the Corporations and Boroughs electing as well as in the Electors: I can see no reason why *Cornwal* a poor and barren County should return 44 Members for Parliament, and yet *Cheshire* together with the City of *Chester* should return in all but three; and why old *Sarum* which has but two Houses, and those under the Command of one Landlord, should send two Representatives to Parliament, whilst many other Towns which might deserve the Title and Privileges of Cities send no Representatives at all. I can scarcely think a Parliament thus constituted can truly and fairly represent the People, the Majority and Richest of them being by such inequalities, excluded from an Electing Vote. The same inconvenience springs from the Constitutions of the Boroughs which elect, not by virtue of their Wealth, Dignity, or Number of Inhabitants, but by the Borough Houses in which they live; these only (which perhaps are the most inconsiderable part of the Borough) having in them the Electing Power exclusive of the rest. This Qualification makes such Houses sell better to a purchaser than any others in the Town; and it is customary for Gentlemen who are desirous of a Seat in Parliament, to lay out their Money in such Bargains, and tho it costs them dear, yet if it be possible, they will be Landlords of a sufficient number of these Borough Houses (in the purchase whereof some Friend's Name is mostly made use of in Trust) that thereby they may command an Election either for themselves or their Assigns at pleasure. What is this less than buying of Votes with Money? A Crime which has been always lookt upon with a severe brow, and yet licens'd by this old Usage. Nor can I discern why this Electing Power should be thus fixt to the Freehold in being, restrained to a small and inconsiderable number of Houses, as if Wood and Stone had a rational faculty, and must be made use of to build and repair the Government.

The Methods of electing in these Boroughs are various; Titles to elect are also different, and very often dubious and uncertain. This necessitates double Elections, and countenances false Returns, which are often made ill use of; for the King having a Power to nominate the Sheriff, and he to make a Return, it may happen that the true and rightful Members shall continue Petitioners only, whilst such as came in by unjust Returns pass an Act to give the King Money for the maintenance of a Standing Army. This Artifice was of much use in the last Parliament at *Westminster*, and became so notorious from the great Number of Petitioners, that a Gentleman being ask'd, whether the House of Commons sat that day in the Parliament; No, (reply'd he) it stood in the Lobby.

It is customary in the Borough of *Lymington* in *Hampshire* to elect by the Ballot: The manner is to give to every electing Burgeess (their number being limited and known) a different colour'd Ball for every Competitor, each Colour being respectively appropriated to the several Competitors: As suppose there should be three Candidates, each Elector has three several Balls given him, which he so manages as to keep only that in his hand, which by its Colour belongs to the Person he intends to chuse; this being inclos'd in his hand, he puts it into a close Box made for that purpose, leaving no possibility to any one to detect what colour'd Ball he put into it. Thus each having put in his Ball according to his Vote, the Balls of one Colour are separated from those of another Colour, and so according to the Majority of Balls of one Colour, the Return is made. This Method I know to be of great advantage where it is made use of; It prevents Animosities and Distast, and very much assists that freedom which ought to be in Elections. No man in this way need fear the disobliging of his Landlord, Customer, or Benefactor; for it can by no means be discovered how he gave his Vote, if he will but keep his own Counsel. If this or some such Device were appointed to be made use of in every Borough over all the Kingdom, I am perswaded it would abundantly answer expectation, in the many Advantages which would attend it: And perhaps it would be of equal Benefit in all other Elections, as well as in those for Members of Parliament, if the Government were so dispos'd as to fill up all Vacancies, whether in Church or State, by the Plurality of Votes appointed to elect; and I am apt to believe that succeeding Ages may reduce it into a Law, that Privy Counsellors shall be chosen by the Lords, Judges by the Gentlemen at the Bar, Bishops by their Dean and Chapters,

Ministers by their Parishioners, Fellows and Masters of Colleges by the Graduates of the same College, Sheriffs by the Gentry of the County, Officers of Trust in the State and in the Army by the Parliament, the Parliament by Freeholders of 40 l. per annum, and all by the Ballot.

'Tis much easier (I know) to find Faults than to mend them; and I could mention many other things of the same nature, the Redress whereof I hope will be thought of in this great Convention, before they proceed to dispose of the Crown. 'Tis an easier matter for a People to make ten Kings, than to unmake one; and to deck a Crown with the highest Prerogatives, than to deprive it, when they are confer'd, of the least of them. If the Crown be given again with the same Qualifications that other Heads wore it, it will then be exalted above the Peoples reach, without some such assisting Miracle as was lately shewn in favour of them. Now, to reform its Redundances is natural, easie, and prudent, the Government being escheated to the People by the King's deserting it: But to offer at any such Attempts afterwards, will be both unkind and imprudent, and will signifie no more than the chattering of a parcel of Magpies about an Owl.

K. J's De-
sertion e-
qual to a
Dissolution
of the Go-
vernment.

Some Men have espous'd an odd and unwarrantable Notion, that the King's Desertion of the Government amounts to a Demise or Civil Death. If this be so, the next Heir ought immediatly to be proclaim'd, and must inherit the Crown with the same inseparable Prerogatives that heretofore belong'd to it, and all Laws or Acts of Parliament made to limit and abridg them (if Lawyers speak truth) are void and null. But if the Departure of the King amounts to such a Desertion as dissolves the Government, then the Power must necessarily revert and vest in the People, who may erect a new one, either according to the old Model, if they like it so well, or any other that they like and approve of better.

Were such a mighty thing to be determin'd by my single Vote, the Government should be Monarchy, and this Monarchy should be Absolute and Arbitrary, and the Prince should be my King. 'Tis he alone who is the Man in *Christendom* in respect of Courage and an innate Disposition to delight in the Happiness of his People, with whom I could freely and securely intrust my All. But the honour I have from him, runs not to his Posterity; for as a good Man may notwithstanding get a profligate Son, so I should be loth to repose such a Trust at a venture in the hands of any one whom I do not know. You have a great Work to do, and 'tis from your Counsels, that after Ages must date their Happiness or Misery, and it therefore obliges your most Serious Thoughts.

I hope, Sir, you will excuse the Liberties I have taken, in giving you so large a Diversion from better Notions of your own, which I know are of a higher flight and swifter wing than what I can pretend to: Mine I do not impose, but submit, as becomes

S I R,

Your Obliged humble Servant

N. T.

Four

Four QUESTIONS Debated.

- Q. 1. Whether the Exercise of the Government of *England* be totally subverted? *Affirm.*
- Q. 2. Admitting the Exercise of Government dissolv'd, whether the Power of settling is in the People? *Affirm.*
- Q. 3. Whether, as the Case stands, it is best to settle the Exercise of the Government in the Person who would be next by Lineal Descent, if King *James* the Second was actually dead? *Neg.*
- Q. 4. Whether 'tis consistent with the Prince's Honour to accept of the Government, especially considering his Declaration was to redress Matters by a Free Parliament? *Affirm.*

With an Answer to the Objection, That the Convention will not have the Power of a Parliament.

- Q. 1. Whether the Exercise of the Government of *England* be totally Subverted? *Affirm.*

IT is necessary first to consider what Government is, then what the antient Constitution of the Government of *England* was.

I shall take Sir *Robert Filmer*'s Definition of Government, because he was a man who endeavour'd to maintain the utmost height of Kingly Power; and his Definition is this, Government is the Exercise of a Moral Power.

The antient Constitution of the Government of *England* I take to be that which was agreed on by the King and all the People after the Heptarchy, when the Saxons moulded the Government, and chose *Alfred* to be King; amongst other things these were part of his Oath, viz. That he should be obedient to suffer right (*abbessant a suffre droit*) as well as others of his People. And it was agreed that a Parliament should be held twice every year at *London*; and this continu'd from that time to the time of King *Edward* the Second, as appears by *Horn's Mirror of Justice*, Cap. 1. Sect. 2. And in the same Section are these words, viz. *Et tout soit que le Roy ne devoit aver nul peere en la terre, pur ceo nequidant que le Roy d' soit tort, si il pecha-vers aucun d' son People, ne nul deses commissairs ne poit estre Judge & Partee, convient per droit que le Roy ust Compaignions pur oyer & terminer aux Parliaments trestouts les breves & plaints de torts de le Roy de la Roign, & de leur Infants & de eux especialment de que torts l'en ne poit aver autrement common droit.*

The antient Constitution of the Government of England.

And altho the King ought not to have any Peer in the Realm, because the King, if he offend against any of his People, none of his Commissaries may be Judge and Party; it behoveth by right, that the King have Companions to hear and determine at Parliaments all the Writs and Complaints of the wrongs of the King, of the Queen, and their Infants; especially of those wrongs of which any cannot otherwise have common Right.

And that Parliaments were held accordingly is manifest, not only by the Authority of the *Mirror*, but by the Writs of Summons to Parliament in *Edward* the First, Second, and Third; and tho there are affirmative Laws to hold Parliaments once every year, and once in three years, I know not of any Negative Law that there shall not be Parliaments as by the Constitution.

K.J. a Sub-
verter of
the Govern-
ment.

That King *James* the Second has totally subverted the Exercise of Government, by exercising an Arbitrary Power contrary to all Moral Power, and so the Exercise of Government is subverted, I shall plainly demonstrate, both in Church and State.

1. In
Church.

First in Church, by setting up the Ecclesiastical Commission, and thereby illegally prostituting all the Clergy to an Arbitrary Power, with a *Non obstante* to all Laws; this is directly against the Exercise of a Moral Power.

2. By ille-
gal Com-
missions.

Secondly, by the Commission to the Bishop of *Chester*, Chief Justice *Wright*, and Justice *Fenner*, by which they turn'd out the President and many of the Fellows of *Magdalen College* in *Oxford* (the same College where Queen *Mary* began to tyrannize) to which may be added, the placing Papists in their room, and putting *Masse* into the Deanry of *Christ-Church*, the greatest College in the University, and Dr. *Walker* in the Headship of University-College. By this means Traytors were made Tutors to young Scholars (for so are all *Englishmen* reconcil'd to the See of *Rome*) a ready means totally to subvert the Reformed Religion and Government; for from Universities generally come great Officers in Church and State.

By setting
up a dispen-
sing Power.

The Dispensing Power contrary to an Act of Parliament made on purpose to prevent Popery, and Arbitrary Power, by preferring Persons in Ecclesiastical, Civil and Military Affairs without taking the Test; by means whereof Papists sat in Council with the King, Judges who have the executive Power of the Law, and many made for particular illegal purposes, were plac'd in *Westminster-Hall*, Sheriffs who had the power of Counties (seven of eight in one Circuit) being profess'd Papists, and a great number of the Justices of the Peace of the same Religion; many Officers in the Army and Soldiers were displac'd, and Roman Catholics plac'd in their stead; and in *Ireland* by degrees Protestants were put out, and Papists put in, and that Kingdom was totally in the power of Roman Catholics.

In owning
the Pope's
Supremacy.

Besides, the King owns the Supremacy of the Pope in all Ecclesiastical Affairs, whereas the Laws of *England* declare the King Supreme in Matters Ecclesiastical and Civil: and the King's owning the Supremacy of the Pope is a setting up an Arbitrary Power in all matters of Religion; for if he is subject to the Pope, and all the Clergy swear Supremacy to the King, this is contradictory, to have two Supremes, one by the Law of the Land legally establish'd, and another rais'd by Arbitrary Power of the King, destructive to the Constitution of the Church of *England*. These things manifestly tend to the putting all Power Ecclesiastical, Military and Civil into the hands of Papists, and the Dispensing Power at once sets up Arbitrary Power to destroy all the Laws, and makes the Exercise of Moral Power to cease.

If it is objected, That all these things, tho they are great Misdemeanors, yet they are but Misdemeanors which a Parliament may correct, but cannot amount to a Subversion of the Exercise of Government.

I answer, that altho in fact the whole Ecclesiastical, Civil and Military Power was not yet actually vested in Papists (for then all must grant it subverted) yet the Acts before-mention'd totally subvert the Exercise of Government, and annihilate the Kingly Office to which there is not requisite the actual Destruction of all, the setting up an Arbitrary Tyrannical Power which may destroy all: and many an Instance may be given, when without any actual wrong done upon the Bishops and Clergy, or the Nobles and Commons of the Land, the Exercise of Government may be subverted; as if the King should send to the King of *France*, &c. to invade *England*, and destroy the Subjects of *England*, tho no *Englishman* is hurt thereby, nor any *Frenchman* comes into *England*, yet the Government is totally subverted; for as King he's bound to protect his People, and when instead thereof he invites others to destroy 'em, the Exercise of Government is subverted, and the Trust repos'd in the King forfeited; as when a Keeper of a Park pulls down the Pales which should keep in the Deer, he forfeits his Office.

If it is said, he's King and accountable to none but God, and Subjects must not rebel nor resist, but suffer and pray:

I answer, his being King makes the Crime the greater: for 'tis not so great a wickedness for a foreign King to destroy us, as for our own; for 'tis no breach of Trust in the one, as 'tis plainly in the other; and what *Junius Brutus* says in his *Vindicia contra Tyrannos*, when he compares a Tyrant King to a Shepherd destroying the Sheep, does he say, I am Shepherd, therefore I may destroy them? *Junius* says, *Major Lupus, quia Pastor, & major Tyrannus, quia Rex*; the greater Wolf because a Shepherd, and the greater Tyrant because a King.

Q. 2. *Admitting the Exercise of Government dissolved, whether the Power of Settling the Exercise of Government is in the People? Affirm.*

TH O some have said the present case to be the Demise of the King, that I deny, the Demise of the King being but a soft Expression of his Death, and is only properly so when the King dies; and King James the Second being alive, to call it a Demise of the King is a contradiction.

Then I argue thus: Either the Exercise of the Government is in King James the Second or in some other Person, or the Power of settling it in the People; but it is not in King James the Second, for the reasons before given and some other which follow; nor is it in any other Person: Therefore it is in the power of the People to settle it. If any can say it is in any other Person, let him assign that Person, which he can't, because there can be no Claim by Descent during his Life; for *non est Heres viventis*, there must be the death of the Ancestor before the Heir can claim any Right.

Then if there is none to claim any Right, there must be a sort of Reverter to the People, who first chose the King (as is plainly prov'd) or a greater Absurdity must follow; which is, that the People must remain without Government, which I think no man will say, especially in England, where many hold Monarchy *Jure Divino*, tho I understand not that or any specifical Government to be so; for then the *Israelites* Government would not as to the Species of it have been so often chang'd: But Government in general may be said of Divine Right, as of Necessity. Then if no Person living can claim a legal Right, they must consent to the People to chuse Representatives to settle the Exercise of the Government.

Q. 3. *Whether, as the Case stands, it is best to settle the Exercise of the Government in the Person who would be next by Lineal Descent, if King James the Second was actually dead? I answer Negatively.*

BEfore I speak to this Question, I must say, that of her Royal Highness the Princess of Orange, by what I have heard concerning her eminent Zeal for God, and being an extraordinary exemplary Pattern of Morality, true is the Proverb of Solomon, *Many Daughters have done virtuously, but she excelleth them all*; this looks like Flattery, but if universal report be true, her great Humility and Wisdom leave no room for such a Vanity. I shall therefore plainly give my reasons for my Opinion.

1. The first is *ab inconvenienti*, the Inconveniences which may follow at this time, the Dispute of the pretended Prince of Wales, &c.

2. If the two Princesses die without Issue, the Government will go to Papists, viz. to Spain, &c.

3. Desert is the best cause of Reward, and who has deserv'd most ought to have most given; 'tis plain who has recover'd England, and the Consequence is as plain.

4. The Princess has more advantage than she or her Sister could expect; for the Life of the King, and the Claim of a Prince and Children that may be of the King, makethem at a more remote distance, than if he who recover'd them and the People be let in for his Life, which is no more than the Law gives to a Husband by the Courtesy of England.

5. He is next Heir Male, tho not by Males.

6. A Princess not so able to make War; the great end of *Israel's* chusing a King was to fight their Battels, which a Woman can't do.

7. The Allies engag'd with the Prince to defend the Protestant Religion are very considerable; and if his Power should cease by the death of another, it would be dangerous.

8. Great Ingratitude to put him in possibility of being worse than if he had never come; for if the Princess dies, he has no longer power to proceed.

9. 'Tis ungrateful to make him a Subject in that Kingdom, for which he has done more than all the Kings of England ever did.

10. As his Power dies, so his Person may not be safe, if a Subject; for he may be indicted by any man.

11. May

11. May be in more hazard of Assassination.

12. The Lords and a great number of the Commons, who were legally chosen in former Parliaments, thought fit the publick Administration should be in the Prince.

I know some are of opinion to have the Prince and Princess, King and Queen; to which I only say, that such joint Power in governing never was in *England*, and the consequences are difficult (if possible) to judg: and tho some say the Administration may be in the Prince only during the joint Lives of the Prince and Princess, I answer, if the Princess is Queen, Regal Power is inseparable from her Person, as was said by some, and not denied by any of the Judges in the case of Ship-mony; and it was said to be a *proprium quarto modo*, which a King or Queen as such must have; and then to have joint Power, will make both equal; and if they should differ, what should be done?

Q. 4. *Whether 'tis consistent with the Prince's Honour to accept of the Government, especially considering his Declaration was to redress Matters by a Free Parliament?*

I Answer, taking it for granted (which I need not) that at the Prince's coming he could not, yet what the King did since his coming, renders it clear and plain, viz.

1. The King's own Judgment against himself for issuing Writs to elect, proves he thought a Parliament of necessity, and then destroying most of them, takes away the only remedy; and he which does so to a desperately sick man, murders him as sure, as he who stabs him to the heart.

2. Then the taking the great Seal and carrying it no man knows whither, stays the Spring of Justice, so that no Originals out of the Chancery can be filled for the Subject to have relief in any real Action, nor in many personal Actions where Original Writs are requisite.

3. His going with Sir *Edward Hales*, a Person notorious being set up to maintain the Arbitrary Dispensing Power, justifies his Dispensing Power still: by these he has brought the Power, into the People whose Representatives have the right of settling the Government as in wisdom shall be thought fit; for tho some object it cannot be for want of a Writ to call them, yet upon long Debate in the House of Commons when this Objection was started, the Lord Chief Justice *Hales* said, *That tho he would maintain the Commons called according to form by Writ, yet they being met were a good House of Commons*, for the Parliament is not the King's, &c. — but the Parliament of *England*; and they being duly chosen by the People, were the Legal Representatives of the People to act as a Parliament. And to say the Convention has Power to settle the Government it self as to the Exercise, and not to have the force of a Parliament, seems strange; besides, no man can say but this Convention will be a Supreme Power, and for the Supreme Power to have any thing Legal to be above their reach, is to say they are Supreme, yet there is something above their Power; & *cujus est dare ejus est disponere*, if they have Power to give the Exercise of the Government it self, which is the highest Act, and not to be able to make Laws for the Establishing and the manner of Exercise, opposes that plain Maxim.

To conclude, The extraordinary Providence of God, whose Wonders his Highness has seen in preserving him and the Fleet in the Deeps, and what we have heard and seen since he came on shore, makes it apparent that the Lord hath sent him; and it would make a Heathen (like *Nebuchadnezzar*) confess it, because no other God can deliver after this sort; and the Works of God being all perfect, it is to be hoped, that there are yet greater things to be done by him, for the refining and reforming Matters in Church and State. *England* had *Lucius* the first Christian King, as most say; *Constantine* the first Christian Emperor was born here; the first Reformation began here: and who knows, but what is remaining, viz. the refining of all things, (which the best want) may be accomplish'd here to the Glory of God, and the Honour of him whom he has sent? I wish he may put him, upon whose Shoulders the Government of all things in Heaven and Earth is laid, into the possession of his Inheritance to the uttermost ends of the Earth.

Important

Important QUESTIONS of State, Law, Justice and Prudence, both Civil and Religious,

UPON THE Late REVOLUTIONS and Present State of these NATIONS.

The Present State of the Nation.

WHEREAS King *James* the Second being long since seduc'd from the Reformed Religion, wherein he was educated, to the Superstitions and Abominations of the Romish Religion, out of his great Zeal for the same, and thro the evil Counsels and Instigations of the Jesuits, and of other Persons of the same or the like wicked Principles and Persuasions, hath ever since with great earnestness and by various means *endeavour'd the Re-establishment* thereof, and the Suppression and utter Extirpation of the genuine Christian Religion, reform'd from the Superstitions and Abominations of the *Roman*, and publicly profess'd under the Protection of the Laws in these and divers other Nations, as of a pernicious Heresy, and under the Notion and Name of the *Northern Heresy*: And for that end, *during the Reign of the late King Charles the Second*, held divers secret Counsels and Conspiracies, both with notorious Enemies of the Reformed Religion beyond the Seas, and at home with Persons notoriously guilty by the Laws of High Treason: And in pursuance of those Counsels and Conspiracies, is generally believ'd to have been a principal Author and Promoter of Wars, Bloodshed, and other great Mischiefs among the Professors of the Reform'd Religion; that being weaken'd by their own hands, they might the more easily be destroy'd and subjugated by those of his Party.

K. J's Designs to introduce Popery.

And whereas the said King *James*, *since his access to the Throne*, in further prosecution of the same Designs, Counsels, and Conspiracies (not to mention any secret Practices, which may possibly be made more manifest in due time) hath notoriously, contrary to the true Constitution of the Government of this Nation, contrary to divers express Statutes, contrary to his own repeated Word and solemn Promises, and contrary to the very Form of the usual Coronation Oath (which he is presum'd to have taken) assum'd to himself a Power to suspend and dispense with the Laws (which is an essential Part of the Legislative Authority, which belongs not to the King alone) and under pretence thereof, keeping up a great Army in time of Peace, hath not only arm'd great numbers of Papists, but put and continu'd in Offices, both in the Army and the Navy, many Papists and other Persons not qualified by Law.

Sets up a dispensing Power.

And that the Administration of Justice might be also in the hands of Papists, and such as were believ'd would comply with his Designs, hath in the Counties chosen divers Papists for Sheriffs, displac'd and put out of Office most of the Protestant Justices of the Peace, and in their room hath put and continu'd professed Papists, and other Persons not qualified by Law; insomuch that generally throughout the Nation in the Counties there is not a legal Justice of the Peace to be found in many miles distance, whatever occasion should happen: in Corporations hath by his Letters of *Mandamus* caus'd profess'd Papists to be chosen for Mayors, Aldermen, and Sheriffs; and in the Courts of Justice at *Westminster* hath plac'd and displac'd Judges, till he had furnish'd the same with such as were believ'd would most perfectly comply with his Pleasure, without much regard to the Laws.

Popish Magistrates set up.

And for the promotion of those Designs in the Church as well as State, hath granted to divers Persons, of whose compliance therein he was well assur'd, a Commission

Ecclesiastical Commission.

mission in the nature of the High Commission (which with all other of like nature at any time to be granted, hath by express Acts of Parliament been utterly abolish'd and made void) by which he hath caus'd the present Lord Bishop of *London* most unjustly and contrary to all Law and Equity to be suspended from his Office; the President of *Magdalen* College in *Cambridg*, and the President and Fellows of *Magdalen* College in *Oxford*, contrary to Law, to be put out of their Freeholds; and by the same Proceedings might (as may reasonably be believ'd was design'd) have turn'd out all the Clergy of *England*, who would not have complied with whatever he should have pleas'd to command.

And for the more direct Restauration of the Papal Authority and Religion in *England* (which to endeavour or attempt is High Treason by the Statutes) hath sent his Ambassador to the Bishop of *Rome*, and admitted and entertain'd a Legate from him, hath permitted Popish Bishops to be consecrated in *England*, and to hold their Visitations, a Jesuit to be of his Privy Council, Jesuit Schools and Convents for Fryars to be erected, and Popish Chappels for publick Mass in divers places; and hath plac'd and permitted known Papists to hold considerable Places and Employments in the Church and in the Universities.

And that the things thus designed and promoted might have been confirmed with the Formalities of a legal Establishment, hath used divers indirect Means, and imployed divers Agents, to have such Persons only chosen to serve in Parliament, as he could be assured would comply with his Pleasure therein; a Practice which strikes at the very root of our Government, and tends directly as the most immediate means to the subversion thereof.

Design to defeat the Protestant Successor.

And to compleat all, that they might be so established and secured for the future from danger of being defeated by a Protestant Successor, hath by the Arts of those subtil Agents been so far transported in his Passion for that Painted Rotten Religion, as to comply with them in an (a) unnatural Intrigue to adopt or set up a Supposititious Child (as is by most Persons in the Nation of all Ranks and Qualities firmly believed, notwithstanding the Extrajudicial Depositions inrolled and published in Print) for his own Son and the rightful Prince of *Wales*, tho to the disinheriting of the true Heiress apparent and his own Children; that so he might have a pretended Successor, to be educated in the Popish Religion, and in time to perfect the Work he had begun; or (as is believed by some) to baffle all hopes of a Protestant Successor for the present, and in due time to set up one of his Natural Sons of his own Religion.

A Free Parliament the only Remedy.

And whereas, when many Lords, both Spiritual and Temporal, Gentlemen and others of all Ranks, observing these things, and well considering the great and apparent Danger that these Nations were by these means brought into, had, as the only Remedy under God, craved Aid of his Highness the Prince of *Orange*, (whose Interest and Concern in these matters, as well as Affection to these Nations and to the Protestant Religion, did both qualifie and oblige him to interpose) and the Prince thereupon coming in with a competent Army, had in a Declaration set out these and the like matters as the cause of his coming, and referred all to the Determination of a Free Parliament; the Nobility and Gentry and others daily resorting to him, and engaging in an Association with him for the Defence of the Protestant Religion, the Antient Government, Laws, and Liberties of these Nations, and great parts of the Army daily revolting to them: the said King *James* was pleased at first so far to comply with these reasonable Demands, as to order Writs for Elections to be sealed, and yet not long after (whether thro his Conscience of the Illegality of his Actions, not able to endure the Examination of these matters, or thro the Instigations of his wicked Counsellors, or both) caused most of the said Writs to be burnt, conveyed away the great Seal, the pretended Prince of *Wales*, the Queen, and divers of the Conspirators in that Intrigue, and Accessories thereunto; to prevent, as is believed, their cross Examination, and further discovery of the whole Contrivance, and of the rest of the Persons concern'd in it, and at last departed himself beyond the Seas, deserting these Kingdoms and the Government thereof.

All this being not only true, but notorious matter of Fact, so that the Relation of it needs neither Apology nor Proof; there arise thereupon several QUESTIONS,

(a) Tho it be in truth Unnatural, yet it may purports them to be obstinate Hereticks, and for that Cause deserving to be disinherited.

ONS,

ONS, which may concern the whole Nation and all Persons therein, who have any regard to the due discharge of their Duty, well to consider, and in order thereunto.

I. Questions of State concerning the Constitution of the English Government.

1. **W**Hether by the Sacred Scriptures, or any Positive Law of God, there be any Particular Form of Government prescribed for the several Nations of the World? or all be left at liberty to constitute any such just Form of Government, as to them shall seem most convenient? And all Persons as strictly obliged to the just and reasonable Observance of those publick Pacts and Constitutions, whereby their several Governments are formed, as of any private Pacts whatsoever? and all again at full Liberty to use all just and reasonable means for the preservation thereof?

2. Whether by THE CONSTITUTION OF THE GOVERNMENT OF ENGLAND in Legislation, or making of Laws, the *Jus Regia Potestatis*, or Regal Power, be more than one third part? or the King's Negative Voice comprehend any thing more than what each of the Houses have? and therefore his assuming, as his Prerogative, what belongs to the whole, be not an invading of the Rights, both of the Lords, and of the Commons; and within the sixth Case of *Hugo Grotius*, 1. *de Jure Belli* c. 4. §. 13. wherein just Force may be used against the Invader?

3. Whether by the Constitution of the Government of England, for the ordinary Administration of Justice, there be not certain Courts and Offices appointed, whose Authority the King can neither enlarge nor abridg; as in each County the Hundred Courts once in three Weeks, the County Court once in a Month, the Courts at *Westminster* once in a Quarter or four times in a Year, the Circuits twice in the Year; and for extraordinary Matters, by the Common Law and Statutes yet in force and unrepealed, the Parliament once in the Year at least? So that the Regal Right in this respect extends little farther than first to the choice of the Persons; and secondly, that the Commission and all Process be made in his Name, as the Supreme in the Government, and for the greater Honour and Majesty of the King and Kingdom?

4. Whether by the Constitution of the English Government, in all ordinary matters between the King and the Subjects, the Ordinary Courts of Justice at *Westminster* have not Jurisdiction, and the Judges of these Courts be not the proper Legal Judges; who may and ought to judge and determine according to the Law of the King's Right and Actions, and of the Validity thereof, and to order equal Right to be done to the Subjects, as well as to the King himself?

5. Whether by the Constitution of the Government of England, in all extraordinary Matters, the High Court of Parliament be not the supreme Judicature; and may not of themselves without the King both judge and correct the Errors and Misdemeanours of the Judges and great Officers of the Nation, and moreover enquire into the Actions of the King himself, so far as they concern the Publick State of the Nation; and if they see Cause, both judge and declare them to be Publick Grievances and contrary to Law, and also demand Redress by Petition, and also in cases of great importance and necessity, when the Constitution and Publick State of the Nation is in danger, by Force and Arms? And whether this Right doth not remain in the Lords and Commons of this Nation in such Case, if the King refuse to call a Parliament, there being then no Superiour Authority or other means to determine the matter between them, when the very fundamental Laws and Constitution are in question?

Indeed it is plain in the Frame and Composure of the Government it self, and in the Actions of our most antient and succeeding Parliaments, and confirm'd by the Polity of those People from whom they did descend, that our wise Ancestors in the Constitution of this Government did particularly intend and take care of two things; The one to give all the Honour and Majesty that could be to the King, for the greater Honour and Advantage to the Nation abroad; The other to retain all the Power that might be to themselves, for the greater Security and Benefit of the Publick at home. And therefore when they had limited and confin'd his Power as much as was thought convenient, they invested him with the rest, not as a Right which he might dispose of or use as he pleas'd, but as a Trust, the management whereof they would inspect and consider; and for that end, as well as to inspect the Actions or inferior Officers, supply Defects, &c. did think fit to have frequent Conventions of Parliaments. So that his Right hath a great and weighty Duty (if not a Condition in Law,

Nature of
the English
Govern-
ment.

as they call it) essentially annex'd to it; and he is in effect only the Supreme Officer, and a kind of *High Reeve* of the Nation, as the *High Shire-reeve* of the County, who in many respects doth truly represent him. And therefore because some have in our Age asserted such an Unaccountableness and Irresistibility in the King as is inconsistent with this Constitution, and others from some Clauses and Declarations prescrib'd in some late Statutes pass'd soon after the Return of the late King *Charles the Second*, may think themselves bound in Conscience to maintain the same, it may be necessary to propose to their serious Consideration some few

Questions concerning those Clauses, and the Oaths and Declarations prescrib'd in the Statutes of 12, 13, & 14 Ch. 2.

1. **W**Hether they who did take these Oaths and declare accordingly, are thereby (being only declarative of their Belief at that time, and not promissory for the future) oblig'd to persist in the same Belief, and and act accordingly in all Cases which may happen, without further Inquiring or Examination of the Truth of that matter?

2. Whether all or any of those Clauses, or the Oaths prescrib'd in the Statutes aforesaid, being all merely Declarative, and not Constitutive, do or can make any real Alteration in the Laws, and in the very Constitution of the Government from what they were before?

3. Whether the vulgar sense of those Clauses, Oaths, and Declarations, be not inconsistent with the natural and original Right of Mankind, to defend and maintain their Rights? the special Constitution of the *English* Government? the frequent Practice of *English* Parliaments, and known Principles of Law allowed at this day? be not contrary to the Sentiments and Practices of most Nations of this part of the World? to the Judgment and Practice of divers Reformed Churches upon great deliberation in their own Case? and of *Queen Elizabeth*, *King James*, &c. and the State of *England* in their Assistance of other People oppressed by their Kings and their Ministers? and of dangerous consequences both to Prince and People? disposing Princes with more Liberty to transgress the Laws, and exposing innocent People, if they believe it, to oppression by them, if not to Wars and Contention with them for the maintenance of their Right? and therefore the Clauses and Declarations aforesaid to be either wholly rejected as false, or else accommodated with some better and more convenient Sense and Explication? as that, which no man will deny, *That neither the King nor his Ministers, acting according to Law, may be resisted upon any pretence whatsoever.* And it may deserve some Considerations.

4. Whether, considering the Time when these Statutes were made, the ambiguous Terms in which the Declarations are drawn, neither restraining them to lawful Actions and Commissions, because that would not serve the turn, nor expressly extending to unlawful, because that was not likely to pass; the Activity and cunning Insinuation of the Romish Emissaries, and their real Interest to have the Government absolute in one governable Prince, rather than subject to the Counsels and Resolves of an untractable Parliament, and the Tricks which they have since impos'd upon us; it be not likely that in these, as well as some other Statutes about and since that time, there may not be some of their Projects craftily intermix'd, and unperceiv'd in the transport the Nation was then in? and the rather if the late King *Charles the Second* had before that time enter'd into their Communion, as is now believ'd?

Absolute Power.

And because in these things many well-meaning People may be impos'd upon, not only by the Authority of Men, whose Judgments may be byass'd by prospect of Favour and Advantage, but also by Ambiguity of words, as *King*, *Absolute*, *Imperial*; it may be fit to note, that the word *King* doth not necessarily import more than one having Supreme Executive Power to govern according to Laws, as the King of *England* certainly hath, tho the Parliament may judg whether he doth so or no. So that if any claim more, that is to be prov'd from the special Constitution of the Government. So the word *Absolute*, when that is attributed to the Kings of *England*, it is to be understood not in respect of Laws, but of Tenure. They hold not of Pope, Emperor, or any other Person or State. And in like manner the word *Imperial*, when us'd of the Crown of *England*, it imports no more than that it is not held of any other Crown.

II. *Questions of Law, Justice and Prudence, upon the Matter of Fact before related.*

1. **W**Hether the Matter of Fact before related, doth not contain divers very high, deliberate, and resolved Violations of the Laws and Constitutions, and tending directly and manifestly to the Subversion of the true and antient Government of this Nation; and be not good Evidence, and a plain Declaration, that the said King *James* did certainly design and endeavour the Subversion thereof, and to make it Arbitrary; and was therefore an Enemy to it? *Violations of the Law.*

2. Whether all this being done at the Instigation of the Papists, and in favour of their Religion (which obligeth them all, both Prince and People, to use their utmost endeavour for the Extirpation of Hereticks) be not also good Evidence, and an open Declaration (notwithstanding their Pretence of Liberty of Conscience) that he was also an Enemy to the Religion and People of this Nation, being Protestants, and by the Pope and his Party reputed and condemned for Hereticks?

3. Whether the said King *James*, having assumed to himself a Power of suspending and dispensing with the Laws, and thereby invaded the Rights of the Lords and Commons, and thereby, and by many other open Acts, declared himself an Enemy to the Government, Religion, and People of this Nation (which are things inconsistent with the Ends and Being of Government and Civil Society) and all this contrary to his solemn Coronation Oath; and through the perswasion and instigation of Jesuits and others, notoriously guilty by the Laws of High Treason, hath not thereby demonstrated himself incapable of the Government of this Nation, and not to be further intrusted therewith? And therefore, *Dispensing Power assumed.*

4. Whether the Prince of *Orange* his coming in to preserve and maintain the Right of the Princess and himself, and to defend and protect an innocent People in the legal enjoyment of their Religion, Rights and Liberties, from Violence, Oppression and Destruction, designed and prepared (as is believed) against them contrary to the Laws, as Queen *Elizabeth* and the People of this Nation had heretofore done for his Ancestors and Country, be not justifiable by the Laws of God and Man? *Coming of the Pr. of O. justified.*

5. Whether the Lords, Gentlemen, and others of this Nation, who in this case, for the preservation of themselves and their Country, invited the Prince to come in; or after his coming entered into the Association with him for the Ends aforesaid, did any thing therein but what was necessary, just, and lawful by the Laws of God and Man, the Constitution of this Government, and many Precedents in this Kingdom? *Association of the Lords and Gentlemen.*

6. Whether the Officers and Souldiers, who had indefinitely entred into the Service of the King, are not to be presumed to have acted therein as rational Men, and to have intended a reasonable and legal Service to their King and Country, for the preservation of the legal Government, Laws and Liberties thereof, and not a slavish Service to the Will of a Tyrant and Enemy of their Country; and therefore in deserting the King, and revolting to the Prince and his Associates, when this came to be disputed, did not do an Act of greater Generosity, Loyalty and Fidelity to the Government and their Country, than if they had continued in his Service, and brutishly, or upon a vain and mistaken Principle of Honour, assisted to the subversion of the Government, the destruction of their Countrymen, and the suppression and extirpation of the Religion which they themselves do profess? *The Army refuse to enslave the Nation.*

The common abuse of the Term *Loyalty*, to impose upon the Nation, makes it necessary to explain the genuine Notion of it. Which is nothing else, when attributed to Persons, but either the State of a Freeman, or *Jus civitatis*, or a conformity of the Will and Actions to the Laws of the Land, and the Government by Law established. But that vulgar Notion of *Loyalty*, whereby many well-meaning Men have by the Sophistry of Jesuits, and ill designing disloyal Men, been imposed on, taken for an actual Compliance with, or at least passive Submission to the Will and Pleasure of the Prince, whether conformable to the Laws and established Government or not, is in these designing Men plainly Knavery, Sycophantry, and Treachery against both King and Government, and hath betray'd a whole Race of Kings into great Mischiefs and Destructions. *Abuse of Loyalty.*

7. Whether upon due consideration of the precedent Questions, all the rest of the Protestants of these Nations, ought not in Prudence, Justice and Charity to

How the
Crown to
be dispos'd.

their Country, to unite and join with the said Lords, Gentlemen, and others, who have associated for the End aforesaid, and unanimously agree to commit the Government, Crown and Dignity thereof to the next undoubted Heir of the Royal Family, who is duly qualified for the same? or, by mutual agreement of all Parties, to such of the Royal Family as is best qualified for the management thereof in the present Circumstances; lest otherwise by their unnecessary over-cautious scrupulous forbearance, they give occasion and encouragement to discontented Persons to involve all in such new Troubles, Factions, Insurrections, and Disturbance of the publick Peace and Settlement, as by their more generous Unanimity might easily be prevented?

Scruples
remov'd.

And because here may arise some Scruples from the Oaths of Allegiance and Supremacy, these things as to that may be considered.

(1.) Whether the Duty of the Subject be not proportionable to the Right of the King, and extends no further?

(2.) Whether the word *Heirs* ought not to be intended; first, of legal and undoubted Heirs? secondly, of such as are duly qualified for the discharge of such a publick Trust and Office, and not of any such as are *non compos mentis*, or, which is worse, *do cum ratione insanire*, and would confound and destroy all?

(3.) Whether in the Case of Succession, both the practice of antient Times, and an antient Formality used at the Coronation, be not Evidence of a Right of judging and choice, upon a special Occasion, of a fit Person of the Royal Family to succeed, remaining in the Lords and Commons of this Nation?

Wisdom of
Providence
in all this
Affair.

8. Whether these Nations professing themselves Christians, ought not in Duty to God, and Prudence to themselves, to acknowledg with all Reverence and Devotion, his admirable, wise, powerful, and gracious Providence, in these late extraordinary Revolutions, and great and seasonable Deliverance from so many and great, both incumbent Evils, and impendent Dangers over them? and to express their sense thereof, both by solemn Thanksgivings, by a speedy and effectual Reformation of that Torrent of Debauchery introduced and designed for their Ruin, and by all dutiful Concurrence with the Indications of his Will thereby intimated to us?

9. Whether it be not reasonable for a Christian Nation to believe, That the said King *James* having unhappily, by the delusions of the Papists, deserted the true Religion wherein he was educated, and revolted to the Superstitions and false Religion which they profess, may not by the special Providence and righteous Judgment of God for the same, and other Sins, be deserted and left to the Delusion also of their unsound and deceitful Policies, and thereupon to be deserted by his People, and the Army in which he trusted, as was *Rehoboam* by the ten Tribes?

10. Whether the special Providence of God, so visible and apparent in this Case, may not justly be looked upon by all serious Protestants, as a Manuduction and Indication of his Will, that these Nations should concur therewith, in a Cause so just and necessary, to the exclusion of the said King *James* from the Government thereof, and to commit the same to some other more proper Person of the Royal Family? and whether all, who shall obstinately refuse to concur therein, have not some reason to fear that they may also in some degree partake of the same Divine Judgments?

11. Whether it be not also a Christian Duty incumbent upon these Nations, upon this Occasion to take into their serious consideration all those other Actions of the King (besides his revolt to the Romish Superstitions and Abuses) which may reasonably be believed to have contributed, as well through the Judgments of God, as by their natural Efficacy, to the bringing of all this Evil upon him; and thereupon speedily to make all such effectual Provision, as may be necessary for the prevention or removal of the same and the like occasion of Mischief from the Nation it self?

12. And whether among such Actions may not justly be reckoned as Notorious, first, Uncharitable fomenting and promoting of Dissensions and Distractions between Christian Nations and People. Secondly, Discountenancing the serious profession and practice of the Reform'd Religion, and irreligious encouraging Profaneness and Debauchery, both by Example, and by Impunity and Connivance. Thirdly, Unjust violation of the Laws and established Government (contrary to the Coronation Oath) and endeavouring to make it arbitrary, by various illegal practices, both upon the ordinary Courts of Justice, by making the Judges Patents to be only *durante bene placito*; and then displacing such as would not, contrary to their Conscience and Duty, comply with his Pleasure and Designs; and upon the

High

High Court of Parliament itself, by perverting and interrupting the legal Freedom of Elections, both in the Corporations and in the Counties; and tampering with the Members themselves, &c. For which and the like Evils, speedy, proper, and effectual Remedies ought be provided.

Questions of Prudence, Religion, and Humiliation, upon the late Revolutions, and present State of the King.

1. **W**Hether the King, having by sad Experience found the so much admired Knowledg and Subtilty of the Jesuits especially, and other Emissaries of the Church of Rome, so perniciously erroneous and deceitful in Matters of Policy, hath not just cause to suspect that it may be so also in Matters of Religion; and thereupon now at his leisure, to retire into some convenient Place of Freedom, and there to take a farther and impartial Examination, whether it be not so indeed?

This may possibly be done effectually by well weighing but of two Considerations of great Importance, and yet of no great Intricacy; the one concerning the *Head of their Church*, the other concerning the *Body of their Religion*, and the Nature and Tendency of it, compared with the Nature and Tendency of the Genuine Christian Religion.

The Pope's Pretences frivolous.

1st. *Whether all that special Authority and Power, which the Bishops of Rome have so long claimed and exercised as peculiar to themselves, and derived from Christ by St. Peter, be not a gross Imposture?* As it needs must be, if either no special Authority was ever either given or promised by Christ to St. Peter, or exercised or claimed by him, more than what was given by Christ to all his Apostles, John 20. 19, 23. Mark 16. 15. or exercised by them; or no special Authority was ever conveyed by St. Peter to the Churches or Bishops of Rome, more than to any other Church or Bishop which he founded and instituted. And besides their defect of proof (which lieth upon them to make out) in the one from the Scripture, and in the other from good Authority, there are two things of great weight against them. First, *That the antient Bishops of Rome claimed no special Authority peculiar to themselves, but by other and inferior Title, and what was much less than they now claim.* Secondly, *That there was very gross Imposture and Forgery used for the introducing and promoting of this pretended Authority.* And if this Pillar of their Church fall, the other, their pretended Infallibility, must by consequence fall with it. And of this Subject may be read Dr. Barrow of the Supremacy, with Dr. Cave of the antient Government of the Church.

2ly. *Whether all that which is properly called Popery, be not such another Corruption of the genuine Christian Religion, by human Inventions, influenced by the subtilty of Satan, as was that of the Law of Moses by the Scribes and Pharisees at the time of the coming of our Saviour; and directly tending to oppose, enervate and affront the same?* This may easily be perceived, by comparing the essential Parts of the Christian Religion with the opposite Corruptions of Popery, and the Tendency of each. As, 1. The Example of the Heads, Christ and his Apostles, with that of the Pope and his Cardinals. 2. The Doctrine. 3. The Worship. 4. The Discipline. 5. The Means of Propagation, &c. And to this purpose may be read Dr. More's *Mystery of Iniquity*, and a little Tract call'd, *The Mystery of Iniquity unveiled*, written by Mr. Allen, but printed without his Name.

2. Whether, if upon such farther Examination, it should please God to open his Eyes, and give him a clear sight of his Errors, and of the Evils he hath committed, as well as those he hath brought upon himself; it will not be his Duty and his Wisdom immediately thereupon to apply himself to do the part of a true Penitent indeed? to humble himself, give Glory to God, by confessing and lamenting his Sins, acknowledging the Justice of his Judgments, and accepting his Punishment, be content with a retired penitent Life; and thereby as a part of Restitution endeavour the Peace of these Nations which he hath so much disturbed, not giving

giving any farther disturbance himself; or encouraging any discontented Person, but abandoning all colour and pretence for any such matter? This would certainly prove his direct way to Happiness hereafter, and possibly to greater Happiness even here, than he could ever have enjoyed amidst the Distractions of the Government of three Kingdoms. And all real Happiness I heartily wish him both here and hereafter.

K. J. not to
be trusted
with the
Govern-
ment.

3. Whether it may not be fit, notwithstanding he may not be further trusted with the Government of these Nations, upon the consideration of Humanity, to treat him with Pity, Civility, and Respect, and a competent annual Allowance; yet such as may not by good Husbandry become in time a means of new Disturbance; and upon condition that he do peaceably retire to some remote Parts, as Italy, or the like, and continue there, or at that distance, without further trouble to these Nations or himself?

A SPECIMEN of a Declaration against DEBAUCHERY, Tendered to the Consideration of his Highness the Prince of Orange, and of the present Convention of the Nation.

IT is certain and apparent, that the Religion of the Papists gives great Encouragement to Vice and Debauchery; and more especially by their abuse and corruption of the true and antient Christian Discipline, and the facility of obtaining Absolutions and Indulgences amongst them; and it hath been long believed, and not without reason, that one of the secret Policies of their Mystery of Iniquity, whereby they have endeavoured for many Tears past to impose their Religion again upon these Nations, hath been first to introduce a Torrent of Debauchery and Neglect, or even Contempt of all Religion, thereby the better to dispose the People for the readmission of theirs.

If this be so, it might reasonably be expected that the very Indignation which the greatest part of these Nations have justly conceived against Popery, should prevail to the utter extirpation of so gross Effects of it, and of those Abuses whereby the Popish Agents, after the Example of Balaam, have so perniciously imposed upon them.

And were it not so, yet Reason and the very Profession which these Nations generally make of Civility and Religion, ought no less to prevail with all who have any sense of either; for nothing can be more irrational, absurd, unmanly and base, than for Men to make profession of Civility, and in their Behaviour express so much toward mortal Men, their Superiors, or even but their Equals, and yet be rude toward the most excellent and transcendent Majesty of all, by profaning his most sacred Name; to profess themselves Christians, and yet by their Words and Actions to contradict their Profession, and so demonstrate either the Hypocrisy thereof in professing to believe what in truth they do not, or their pusillanimity in acting contrary thereunto in a base compliance with vicious Persons or Customs.

But besides, these are things so abominable and displeasing to the sacred Majesty of God, and so inconsistent with sincere Christianity, that having been so far spread, and with so unchristian Connivance; these whole Nations had just reason to fear from the just Judgments of God a most severe Scourge to purge them out, rather than to hope from his Mercy so great a Deliverance from the Instruments of his Vengeance, and from that Rod which hath so long appeared so terrible over them.

Wherefore since it hath pleased God in great Mercy, and by his special Providence to bless our Undertakings with so extraordinary success against the Instruments of Slavery, Popery and Debauchery, We hold our self obliged, as well in Duty and Gratitude to God, as in Providence for the good of these Nations, and for the more effectual removal of all Advantages from such evil Instruments, to declare, That as we have taken Arms, rather against the Errors, Abuses, and evil Designs, than Persons of the Papists (to whom we shall be always ready to shew all Christian Clemency that their good and Christian behaviour shall deserve) so we are resolved that while we protect the Persons, Religion, Rights and Liberties

Liberties of the Protestants, we will not in the least connive at or tolerate their Vices or Debauchery, but prosecute the same as far as in us lieth, with all Indignation and Severity of condign Punishment of all we shall find guilty thereof.

And to that end, as we do expect from all Civil Magistrates, that they do faithfully and impartially discharge their Duty to God and their Country, in the due execution of all Laws already in force against Swearing, Profane or Obscene Speeches and Discourses, Drunkenness, and all other Debauchery; and hope that the next Parliament will make such further provision of severe Penalties, as shall be necessary in that respect; so in the mean time we do strictly require and command all Officers and Soldiers in our Army and Service, that they do instantly, upon the Publication of this our Declaration, reform their Manners accordingly; and that all Colonels and Captains do cause this our Declaration to be openly read in the hearing of their respective Regiments, Troops and Companies; and that thereupon they and all other Officers, do execute a strict Discipline and Correction upon all Soldiers, who shall be found to offend against the same. But to all others, whether they came in with us, or have since come into our Service (for in that respect we shall make no difference) who shall behave themselves soberly, virtuously, and as becomes Men and Christian Soldiers, we shall give all the Encouragement of good Employment, due Pay, and all necessary Accommodations, that can in reason be expected or desired.

Some Short CONSIDERATIONS relating to the Settling of the Government; humbly offer'd to the Lords and Commons of *ENGLAND*, now Assembled at *Westminster*.

My Lords and Gentlemen,

YOU are assembled upon Matters of the highest Importance to England and all Christendom; and the Result of your Thoughts, in this Convention, will make a numerous Posterity Happy or Miserable. If therefore I have met with any thing that I think worthy of your Consideration, I should think my self wanting in that Duty which I owe to my Country and Mankind, if I should not lay it before you. If there be (as some say) certain Lineaments in the Face of Truth, with which one cannot be deceiv'd, because they are not to be counterfeited; I hope the Considerations which I presume to offer you, will meet with your Approbation: That, bringing back our Constitution to its first and purest Original, refining it from some gross Abuses, and supplying its Defects; you may be the Joy of the present Age, and the Glory of Posterity.

First,² **I**T is necessary to distinguish between Power it self, the Designation of the Persons Governing, and the Form of Government. For,

1. All Power is from God as the Fountain and Original.
2. The Designation of the Persons, and the Form of Government, is either, First, immediately from God, as in the Case of *Saul* and *David*, and the Government of the *Jews*; or, Secondly, from the Community chusing some Form of Government, and subjecting themselves to it. But it must be noted, that tho *Saul* and *David* had a Divine Designation, yet the People assembled; and in a General Assembly, by their Votes, freely chose them: Which proves, that there can be no orderly or lasting Government without consent of the People tacit or express'd; and God himself would not put Men under a Governor without their Consent. And in case of a Conquest, the People may be called Prisoners or Slaves (which is a State contrary to the Nature of Man) but they cannot be properly Subjects, till their Wills be brought to submit to the Government: So that Conquest may make way for a Government, but it cannot constitute it.

Secondly, There is a Supreme Power in every Community, essential to it and inseparable from it; by which, if it be not limited immediately by God, it cannot form it self into any kind of Government; and in some extraordinary Occasions, when the Safety and Peace of the Publick necessarily require it, can supply the Defects, reform

Power and
Persons
distinguish'd.

Supreme
Power in
every Com-
munity.

reform the Abuses, and re-establish the true Fundamentals of the Government, by purging, refining, and bringing things back to their first Original: which Power may be called, The Supreme Power Real.

Persons in
Supreme
Power.

Thirdly, When the Community has made choice of some Form of Government, and subjected themselves to it, having invested some Person or Persons with the Supreme Power; the Power in those Persons may be called, The Supreme Power Personal.

Fourthly, If this Form be a mix'd Government of *Monarchy*, *Aristocracy*, and *Democracy*; and, for the easy Execution of the Laws, the Executive Power be lodg'd in a single Person; he has a Supreme Power Personal, *quoad hoc*.

Supreme
Power in
England
in King,
Lords, and
Commons.

Fifthly, The Supreme Power Personal of *England*, is in Kings, Lords, and Commons; and so it was in effect agreed to, by King *Charles* the First, in his Answer to the nineteen Propositions; and resolved by the Convention of the Lords and Commons in the Year 1660. And note, that the Acts of that Convention, tho never confirmed by Parliament, have been taken for Law, and particularly by the Lord Chief Justice *Hales*.

How the
Supreme
Power
fails.

Sixthly, The Supreme Power Personal of *England* fails three Ways.

How K. J.
has forfeit-
ed his
Power.

1. 'Tis dissolved: For two essential Parts fail. 1. A King. 2. A House of Commons; which cannot be called according to the Constitution, the King being gone, and the Freedom of Election being destroyed by the King's Incroachments.

2. The King has forfeited his Power several Ways. Subjection to the Bishop of *Rome*, is the Subjection against which our Laws cry loudest: And even *Barclay* (that Monarchical Politician) acknowledges, that if a King alienate his Kingdom, or subject it to another, he forfeits it. And *Grotius* asserts, that if a King really attempt to deliver up, or subject his Kingdom, he may be therein resisted: And that, if the King have Part of the Supreme Power, and the People or Senate the other part (the King invading that part which is not his) a just Force may be oppos'd, and he may lose his part of the Empire. *Grotius de Bello*, &c. Cap. 72. But that the King has subjected the Kingdom to the Pope, needs no proof; That he has usurp'd an absolute Power superior to all Laws, made the Peoples Share in the Legislative Power impertinent and useless, and thereby invaded their just Rights, none can deny. 'Twere in vain to multiply Instances of his Forfeitures: and if we consider the Power exercis'd by him of late, it will most evidently appear to all who understand the *English* Constitution, that it admits of no such King, nor any such Power.

3. The King has deserted,

1. By incapacitating himself by a Religion inconsistent with the Fundamentals of our Government.

2. By forsaking the Power the Constitution allow'd him, and usurping a foreign one: So that tho the Person remain'd, the King was gone long ago.

3. By personal withdrawing.

Seventhly, The Supreme Power Real remains in the Community; and they may act by their Original Power: And tho every particular Person is, notwithstanding such Dissolution, Forfeiture or Desertion, subject to the Laws which were made by the Supreme Power Personal, when in being; yet the Community's power is not bound by them, but is paramount all Laws made by the Supreme Power personal; and has a full Right to take such Measures for Settling the Government, as they shall think most sure and effectual, for the lasting Security and Peace of the Nation. For we must note that it was the Community of *England*, which first gave being to both King and Parliament, and to all the other Parts of our Constitution.

Eighthly, The most Renown'd Politician observes, That those Kingdoms and Republicks sublast longest, that are often renew'd or brought back to their first Beginnings; which is an Observation of self-evident Truth, and implies, That the Supreme Power Real has a Right to renew or bring back. And the most ingenious *Lawson* observes (in his *Politica*) That the Community of *England*, in the late Times, had the greatest advantage that they or their Ancestors had had for many Ages, for this purpose; tho God hid it from their Eyes: But the wonderful Concurrence of such a Series of Providences, as we now see and admire, gives ground to hope, that the Veil is remov'd, and the Nation will now see the things that concern their Peace.

Ninthly, The Acts done and executed by the Supreme Power Personal (when in being) have so model'd the Parts and Persons of the Community, that the Original Constitution is the best, justest, and the most desirable. The Royal Family affords

a Person that both Heaven and Earth point out for King: There are Lords, whose Nobility is not affected by the Dissolution of the Government, and are the subject Matter of a House of Lords; and there are Places, which by Custom or Charter have right to chuse Representatives of the Commons.

Tenthly, There are inextricable Difficulties in all other Methods. For,

1. There is no Demise of the King, neither Civil nor Natural.
2. There is consequently no Descent.
3. The Community only has a Right to take advantage of the King's Forfeiture or Desertion.
4. Whatever other Power may be imagin'd in the two Houses, as Houses of Parliament, it cannot justify it self to the Reason of any who understand the bottom of our Constitution.
5. By this method all Popish Successors may be excluded, and the Government secur'd, in case all the Protestants of the Family die without Issue; and this by the very Constitution of *England*. And the Question can never arise about the Force or the Lawfulness of a Bill of Exclusion.

The Community has the Advantage of the King's Forfeiture.

6. The Convention will not be oblig'd to take Oaths, &c.

Eleventhly, If these things be granted, and the Community be at liberty to act as above, it will certainly be most advisable, not only for the Security and Welfare of the Nation; but (if rightly understood) for the Interest of their Royal Highnesses, to limit the Crown as follows:—— To the Prince of *Orange* during his Life (yet with all possible Honour and Respect to the Princess, whose Interests and Inclinations are inseparably the same with his) Remainder to the Princess of *Orange*, and the Heirs of her Body; Remainder to the Princess of *Denmark*, and the Heirs of her Body; Remainder to the Heirs of the Body of the Prince of *Orange*; Remainder as an Act of Parliament shall appoint.

This will have these Conveniences among others.

1. Husband and Wife are but one Person in Law, and her Husband's Honour is her's.
2. It puts the present Kingly Power into the best Hand in the world; which (without Flattery) is agreed on by all Men.
3. It asserts the above-said Power in the Community.
4. It will be some Acknowledgment to the Prince for what he has done for the Nation: And it is worthy Observation, that before the *Theocracy* of the *Jews* ceas'd, the manner of the Divine Designation of their Judges was by God's giving the People some Deliverance by the hand of the Person, to whose Government they ought to submit; and this even in that time of extraordinary Revelations. Thus *Othniel*, *Gideon*, *Jephthab*, *Samson*, and others were invested by Heaven with the Supreme Authority: and tho' *Joshua* had an immediate Command from God to succeed *Moses*, and an Anointing to that purpose by the laying on of *Moses's* hands; yet the Foundation of the Peoples Submission to him was laid in *Jordan*. And I challenge the best Historians to give an Instance (since that *Theocracy* ceas'd) of a Designation of any Person to any Government, more visibly Divine than that which we now admire. If the hand of Providence (miraculously and timely disposing natural Things in every Circumstance to the best advantage) should have any influence upon mens Minds, most certainly we ought not here to be insensible; if the Voice of the People be the Voice of God, it never spoke louder. If a Nation of various Opinions, Interests and Factions, from a turbulent and fluctuating state falls into a serene and quiet Calm, and mens Minds are strangely united on a sudden; it shews from whence they are influenc'd. In a word, if the hand of God is to be seen in human Affairs, and his Voice to be heard upon Earth; we cannot any where (since the ceasing of Miracles) find a clearer and more remarkable Instance, than is to be observ'd in the present Revolution. If one examines the Posture of Foreign Affairs, making way for the Prince's Expedition by some sudden Events and Occurrences, which no human Wisdom or Power could have brought about; if one observes that Divine Influence which has directed all his Counsels, and crown'd his Undertakings, notwithstanding such innumerable Dangers and Difficulties, with constant Honour and Success; if one considers how happily and wonderfully both Persons and Things are changed in a little time, and without Blood: It looks like so many Marks of God's Favour, by which he thinks fit to point him out to us in this extraordinary Conjunction.

Kingly Power best in the hands of the P. and Pfs. of O.

I will trouble you but with one Consideration more; which is, that the two things most necessary in this Affair are Unanimity and Dispatch: for without both of these your Counsels will have little effect. In most things 'tis good to be long in resolving, but in some 'tis fatal not to conclude immediately; and Presence of Mind is as great a Virtue, as Rashness is a Vice. For the Turns of Fortune are sometimes so quick, that if advantage be not taken in the critical hour, 'tis for ever lost. But I hope your Lordships, and all those Gentlemen who compose this August Assembly, will proceed with so much Zeal and Harmony, that the Result of your present Consultations may be a lasting and grateful Monument to Posterity of your Integrity, Courage, and Conduct.

The Proceedings of the Present PARLIAMENT
Justified by the Opinion of the most Judicious and
Learned *HUGO GROTIVS*; With
Considerations thereupon.

THere are some, I do observe, amongst the Clergy of the Church of *England*, who seem very much concerned for the late King's Interest, and dissatisfied with the Management and Disposure of Affairs relating thereto, by this Great and Honorable Convention of the Lords and Commons now assembled in Parliament. All who cherish Resentments of this kind I dare not indistinguishably condemn, because they may possibly be directed in some by a Principle of Honour and Honesty: But those whose Intentions are honest, and do not principally design thereby to betray their Country into Popery and Vassalage (for such will be the natural Consequences, tho not the Inducements to their Wishes) I desire they would seriously weigh this Right they so much contend for in the Ballance of Law and Reason, before they pass a Censure or ground an Opinion.

*No Right
but by Law.*

There can be no Right pretended either to Property or Dominion, but by the Laws of Nature, Nations, or the Municipal Laws of the Country where such Right is claimed; and altho the latter of these are grounded upon and derived from the two former, yet do they notwithstanding take place in the deciding of all Difficulties, so far as their Statutes or Precedents do extend: But where the Municipal Laws are silent or defective, there Recourse is to be had to the Laws of Nature and Nations. Upon this account it was, that the grave and learned Serjeant *Maynard*, being applied unto as the fittest Person, in respect of his great Age and Learning, to signify what the Laws of the Land did direct in such an Exigence as this, replied, *That it was true, he was the most antient of all those who attended that Profession, that he had outlived several Kings, and several Sets of Judges, but now he had also outlived the Law it self.* Intimating thereby, that the Case was so unusual and extraordinary, that it went beyond the direction of the Municipal Laws, and therefore must appeal to a more remote Tribunal.

The Reason why I do more particularly single out the Opinions of this famous Civilian upon this Occasion, is because of the great Credit and Authority he has obtained in the World, especially amongst the Clergy; and is above all other of his Faculty, most tender of the Rights and Prerogatives of Crowned Heads. Upon this account there can nothing reasonably be objected to his Sense of those Scruples and Difficulties which some at present labor under. Therefore I desire they would hear him in his own Words, with the most fair and genuine Translation they will admit.

Grot. de Jure Belli & Pacis, Lib. 1. Cap. 4. Sect. 16.
Si Bello injusto & cui Juris Gentium If any one by an unjust War, such as
requisita non adsint, Imperium arripu- wants those Requisites which by the Laws of
erit aliquis, neque Pactio ulla secuta Nations it ought to have, does usurp a Go-
fit vernment,

fit aut Fides illi data, sed sola vi retineatur Possessio: videtur manere bellijus, ac proinde in eum licere quæ in hostem licet, qui, a quolibet etiam privato, jure potest interfici. In reos Majestatis, inquit Tertullianus, & publicos Hostes omnis homo Miles est.

vernment, nor afterwards enters into any Compact with the People, nor is there any Trust repos'd in him, but his Possession is maintain'd by Force; the Right of War does in this Case still continue: wherefore it is lawful to deal with him in all things as with an Enemy, for he may be justly slain by any private Person. *Tertullian* tells us, *That against those who are guilty of usurping Majesty, and against common Enemies, every one is a Soldier.*

I know but of three ways whereby Empire can be originally acquired. The first is by Nature, and the Governor a Patriarch, who immediatly presides over a Family or City of his own natural Generation, or claims the Government by a Lineal Descent from him who was the common natural Ancestor of all his Subjects. To this Title I think there is no Prince now in the World lays claim: if there be, let him produce his Pedigree, and prove himself the *Primogenitus* by an Hereditary Line from the Natural Father of his People, and I will not farther contend it with him.

Three ways of acquiring Empire. By Descent.

The second sort of Empire is by Conquest, of which you see what *Grotius* says. But put the case the Conqueror had a Right prior to his Conquest, so that the War cannot be called unjust, yet after he has acquired the Government, he cannot at once be in, by two Titles, so as to exercise the respective Powers given by both: because if he holds by Conquest, his Power is absolute; if by Contract, then limited and directed by the People; and he cannot be both absolute and limited at the same time. From hence it must necessarily follow, that by every Act wherein he transgresses his limited Power, in usurping what he had no manner of Right to, he renounces his lawful Title, and rules by Force and Violence only; and thereby the Conqueror's unjust War, and the Peoples just Right to vindicate themselves from this unjust usurpation, is still continued.

By Conquest.

As the Case stands now with us in *England*, if the late King could have claimed by Conquest, as many have pretended he might, from *William* the Conqueror, only to palliate some illegal Proceedings; what has been done against him, and much more, in the Opinion of this learned Man, had been both lawful and justifiable. But if he claims neither as a Patriarch, nor by Conquest, then there is only left for him to claim by Compact, under which Qualification I desire you would farther consider him by the Rules which our learned Author lays down.

No Conquest own'd in England.

Grot. de Jure Belli, Lib. 2. Cap. 14. Sect. 4.

Promissa quoque plena & absoluta atque acceptata, naturaliter jus transferre, demonstratum supra est; quod itidem ad Reges, non minus quam ad alios pertinet; ita ut improbanda sit, hoc quidem sensu, eorum Sententia, qui negant Regem teneri unquam his quæ sine causa promisit.

That Promises fully made and accepted do naturally transfer a Right is already shewn. Now this holds as well in Kings as in private Men: their Opinions therefore are not to be allow'd of, who hold, that what a King promises without a good cause, is not obligatory.

Contrary to this Fundamental Law of Nature and Reason is the Opinion of those Divines who hold all Kings to be *Jure divino*, and consequently their Power absolute; so also of those common Lawyers who would justify that all Concessions made by the Prince to his People, in diminution of his Prerogative Royal (tho dangerous and destructive) are void and revocable.

Ib. Lib. 1. Cap. 4. Sect. 7. N. 3.

Notandum est, primo homines non Dei præcepto sed sponte adductos, experimento infirmitatis Familiarum segregum adversus violentiam, in Societatem civilem coisse; unde ortum habet Potestas Civilis, quam ideo Humanam Ordinationem Petrus vocat, quanquam alibi & Divina Ordinatio vocatur, quia hominum salubre institutum Deus probavit. Deus autem

'Tis to be observ'd, That Men did not originally unite into Civil Communities by any Command from God, but voluntarily, and from the experience they had that separate Families were alone unable to resist any foreign Force. From hence grew Civil Power, which *Peter* therefore calls a *Human Ordinance*, tho elsewhere it is call'd a *Divine Ordinance*, because God did approve thereof as futable and convenient for the good of Mankind;

tem humanam legem probans, censetur probare ut humanam & humano more.

Mankind; but when God approves of a Human Law, he must be suppos'd to do it as human, and after a human manner.

In this Paragraph our Author traces a lawful Empire to its Originals: he finds it then to reside in the People, and derives it, together with the reasons thereof, from them, to such Person or Persons in whom it is by their Act and Sanction plac'd and confirm'd.

Grot. de Jure Belli, Lib. 1. Cap. 4. Sect. 7. N. 2.

Ferri enim leges ab hominibus solent & debent cum sensu humane imbecillitatis. Hæc autem Lex de qua agimus, pendere videtur a voluntate eorum qui se primum in Societatem Civilem consociant, a quibus jus porro ad imperantes manat. Hi vero si interrogarentur, an velint omnibus hoc onus imponere, ut mori præoptent, quam ullo casu vim superiorum armis arcere, nescio an vel se sint responsuri, nisi forte cum hoc additamento, si resisti nequeat, nisi cum maxima Reipublicæ perturbatione aut exitio plurimorum innocentium, quod enim tali circumstantia caritas commendaret, id in legem quoque humanam deduci posse non dubito.

All Laws and Governments always are and ought to be establish'd by the first Legislators with respect to human Frailty. The Law we treat of (*viz.* of Resistance in cases of inevitable necessity) seems to depend upon the Intention of those who first enter'd into Civil Society, from whom the Right of Governing is transfer'd to the Governor. If such were ask'd, Whether they intended to impose a Yoke equal to Death it self upon all who should offer to resist the Tyrannies of a superior Magistrate by force, upon any account whatsoever? I much doubt, whether they would declare themselves in the Affirmative, unless perhaps to avoid the Inconveniences which might attend such a Storm in the State, and the destruction of many Innocents: for what in this case Charity would oblige, may be receiv'd as a Law.

Power originally in the People.

Here our Author gives another touch at the Original of Empire, and in effect tells us, that as it first was in the Power of the People to make the Laws of Government, so it is absurd to think, that they should not by those Laws secure themselves against the Passions and Infirmities of the Governour, which they then made, that thereby they might be justifiable in re-assuming their Native Liberty, so far as to repel by force the Violence he should offer either to themselves or their Laws. To this effect, and more closely, does *Vasquius* write, *Lib. 11. cont. Illust. cap. 82. n. 3. Semper licet subditis si possint, in libertatem eam, scilicet quæ populi est, se vindicare: Quia quod vi partum est Imperium, vi possit dissolvi; quod autem ex voluntate sit profectum, in eo poenitere liceat & mutare voluntatem.*

Ib. Lib. 1. Cap. 4. Sect. 13.

Si Rex partem habet summi Imperii, partem alteram Populus aut Senatus, Regi in partem non suam involanti, vis justa opponi potest, quia eatenus Imperium non habet. Quod locum habere censeo etiamsi dictum sit, Belli potestatem penes Regem fore, id enim de bello externo intelligendum est: cum alioqui, quisquis Imperii summi partem habeat, non possit non jus habere eam partem tuendi. Quod ubi sit, potest etiam Rex sui imperii partem, Belli jure amittere.

If the Supreme Power be divided between the King and the People, he may justly be resisted by Force if he invade that part which is not his own, because his Power extended not to it. This I conceive must be allow'd, tho the King have the Power of Peace and War; for this is to be understood of foreign War. Whosoever hath any part of the Supreme Power, must also necessarily have a Right to defend it; and where the Government is so constituted, the King himself may justly, by the Right of War, lose even his own part of the Empire.

Supreme Power in England is amongst three.

This is plainly the Case of *England*, where the Supreme Power is divided between the King, Lords, and Commons, and where the King in his greatest Magnitude is always acknowledged to be *Minor Universis*. It is evident then, that if either of these three do break in upon the Rights and Privileges of either of the other two, Force is justifiable to repel this Invasion: as for instance, if any new Precept, Ordinance or Command should be introduced as an obligatory Law; or if any Law formerly made should be repeal'd or dispens'd with, which in effect are both the same, by any one of these three Estates, without the Concurrence of the other two in Parliament; this

this is such an Invasion as *Grotius* here speaks of: because this Power of making and repealing a Law is jointly in the King and People, but in neither of them separately. Now whether the erecting of an High Commission Court directly contrary to an Act of Parliament, be not a virtual repealing of that Act; whether the dispensing with several other Statutes be not equivalent with the assuming of a Power to abrogate them; whether the establishing a Standing Army in time of Peace be not a virtual Introduction of a new Law in it self, and a Repeal of all the old ones in its Consequences; and whether all these be not such an Invasion of that part of the Government which belongs to the People as will justify Resistance, let the World judg: If so, the Legality then of all that has been done or is farther likely to be done against such an Invader, will easily appear. *Theodosius* the Emperor often used this excellent Expression, *Tantum mihi licet quantum per leges licet*; and *St. Paul* acquaints us with the Conditions of our Submission, not for Wrath but Conscience sake, *knowing that he is the Minister of God for our Good*. Nor indeed does it seem Christian or Reasonable, to impose Obedience farther than it shall appear to be for the general Good of the People, for whose Safeguard and Protection, not their Ruin and Destruction, Government, nay Religion it self, was first instituted. *Unicus Imperii finis est populi Utilitas*, saith *Junius Brutus*; and I cannot but concur with this fundamental Maxim, *Salus populi est suprema Lex*.

Grot. de Jure Belli, Lib. 1. Cap. 4. Sect. 10.

Si tamen Rex reipsa etiam tradere Regnum aut subicere moliatur, quin ei resisti in hoc possit non dubito. Aliud est enim ut diximus Imperium: aliud habendi modus, qui ne mutetur obstare potest Populus: id enim sub imperio comprehensum non est. Quod non male aptes illud Seneca in re non dissimili, Et si parendum in omnibus Patri, in eo non parendum, quo efficitur ne Pater sit.

If a King shall endeavour to give up or subject his Kingdom to another, I doubt not but he may be resisted; for Empire is one thing, and the manner of holding it another, the Alteration whereof the People may hinder; for that is not comprehended under the Notion of Empire it self. To this may that Saying of *Seneca* be well applied, being in effect the same case; *Altho an universal Obedience is requir'd to Parents, yet not in those things wherein they cease to act like Parents.*

Cases in which a King is to be resisted.

What Designs have been carried on to alter the Government by subverting the fundamental Laws thereof, and by private Leagues and Combinations with a neighbouring Prince, to subject the Kingdom to his Power, by admitting of a Foreign Army into it, is in part evident by the *French King's* Testimony, and in convenient time will further appear to add to those many other weighty Inducements which the People had, to proceed by such Measures as the Wisdom of the Nation has thought fit.

ib. Lib. 1. Cap. 4. Sect. 9.

Si Rex aut alius quis Imperium abdicavit aut manifeste habet pro derelicto, in eum post id tempus omnia licent quae in privatum, sed minime pro derelicto habere rem censendus est qui eam tractat negligentius.

If a King or any other Superior Magistrate shall abdicate or manifestly desert the Government, any thing may be lawfully done against him that may be done against a private Person: but he who governs only negligently, is not to be esteem'd as one who hath deserted.

Abdication.

The word *Abdicate* in its proper Sense, is used to signifie, when a superior Magistrate does renounce and utterly withdraw himself from the Government, or from that share of it which he holds. This may be done voluntarily and designedly, by transferring the Government to another by some formal Method of Conveyance, as *Charles the Fifth* did to his Son, being himself inclined to become a Recluse; or else there may be an involuntary and undesigned Abdication, as when an Office, and the executing of the same, does determine by *Misfeasance*, or *Nonfeasance*. The word *Desert* implies only a *Nonfeasance*, and must naturally amount in all ministerial Offices (that of a King, who hath only the executive Power, being no other) to an End and Determination of the same; and thereby does vest again in him or them who first created or instituted the Office, an immediate Power to erect and institute a new one, together with such an Officer as they shall approve of to execute it, with such Restrictions and Limitations as they shall think expedient.

How

How far this poor Government has been abdicated, renounced, deserted and forsaken by *Malefeasance*, *Misfeasance*, *Nonfeasance*, and at last by an utter *Dereliction*, I need not repeat, it being too evident to all but those who will not see, than whom there is none so blind and incorrigibly ignorant.

Grot. *De Jure Belli*, Lib. 1. Cap. 4. Sect. 8.

Primum ergo, qui Principes sub Populo sunt, sive ab initio talem acceperunt potestatem, sive postea ita convenit ut Lacedæmone, si peccent in Leges & Rempublicam, non tantum vi repelli possunt, sed si opus sit puniri morte, quod Pausaniæ Regi Lacedæmoniorum contigit.

Those Princes who are inferior in Power to the whole Body of the People, whether by original or subsequent Compact, as in *Lacedæmon*, if they violate the Laws, or wrong the Commonwealth, such may not only be resisted by force, but if necessary, be punished by death, which befel *Pausanias* King of the *Lacedæmonians*.

Kings sacred by their Office.

How call'd Anointed.

How sacred the Person of a King is, I cannot determine; but to his Office, as to all things that are for universal Good, whilst executed in order to that End, I will allow a Character of Sanctity. Some Kings, such as were by God's immediate Appointment, are stiled *His Anointed*, and were handed to his People with a particular Command to be tender of their Persons: but this must be understood of such only, who are also *nursing Fathers* to their People; for of others of a different stamp, the Scripture speaks but with a slender respect, when it says, *I have given you a King in my Wrath*. In *Deuteronomy* we find the People left to chuse a King from among their Brethren; and *Moses* elsewhere prescribing Laws to him. *David* makes a League with the People at *Hebron*, which was doubtless that original Contract, according to which he was to go in and out before them. It was a noble Expression of the Emperor *Trajan*, when he delivered a Sword to a Captain of the Pretorian Band, *Hoc pro me utere si recte impero, si male contra me*: But it is not upon every small occasion that Kings may be bound in Fetters, or that *Trajan's* Sword should be inverted to his own Breast. A King's Office is sacred, and so is his Right also, which while it keeps within its due Limits ought not to be invaded. The Laws of God do in positive Terms command Honor and Obedience, as well as Tribute to be paid to him, with which the municipal Laws of this Kingdom do equally conspire in favor of his Dignity and Person. But Divine as well as Human Laws, tho they sound absolutely, yet refuse not upon extraordinary Exigences, to submit to implied Exceptions. Upon this account, the *Jewish* Doctors in case of their *Sabbath*, which of all things was esteemed most sacred amongst them, and the Laws for the observance of it most strict and absolute, yet they held that *Periculum animæ impellit Sabbathum*; and for the same reason Christ himself justifies the breach of the Sabbath, and eating of the Shew-Bread, in cases of extreme necessity: so likewise must the Danger be imminent, and the Necessity very urgent, that can any ways excuse so much as an irreverent thought of Majesty. Yet, as the great Law of Necessity is superior to all others, so will it sometimes justify such Acts as are against all Laws of an inferior Order. In such cases the People are, must, and will be absolute and arbitrary; and therefore they cannot by any Contract or Promise, either with Prince or Peasant, renounce and abdicate this great Law of Self-preservation: in affirmance of which great Truth, *Johannes Major*, in Lib. 4. *Sententiarum*, thus expresses himself, *Non posse populum à se abdicare potestatem destituendi Principis in casu quo ad destructionem vergeret*. But how far the present Exigence may justify the Act of the People in altering of the Succession where the Monarchy is Hereditary, and the Heir may plead his Innocence, the following Authorities will resolve.

Grot. *de Jure Belli*, Lib. 2. Cap. 4. Sect. 10. N. 2. p. 141.

Sciendum est, ejus qui nondum natus est nullum esse jus, sicut nec ulla sunt accidentia rei non existentis.

Fortesc. de
laudibus,
c. c. 13.
p. 32.

Quare, si populus, à cujus voluntate jus regnandi profloiscitur, voluntatem mutet, iis qui nondum nati sunt, ut

We must know, that no Right can belong to him who is yet unborn, as that which hath no Existence can have no Accidents. Wherefore if the People, from whose Will all Right of Sovereignty did originally proceed, should happen to change their Will, yet cannot

ut quibus jus quæsitum nondum est, nullam facit injuriam. Sicut autem populus expresse mutare voluntatem potest, ita & tacite credi mutasse. Mutata igitur populi voluntate, neque dum existente eorum jure qui expectari possunt, parentibus autem è quibus nasci possunt, qui jus suo tempore essent habituri, id ipsum jus derelinentibus, nihil est quod obstet quominus illud ut derelictum, ab alio occupari possit.

not they be supposed thereby to injure them who have yet acquired no Right. And as the People may be believed to change their Will by express words, so they may tacitly likewise: allowing then that the People have changed their Will, and that such future Rights have no real existence in those who are only in expectancy; but that the Parents from whom they may be born, having in them this Right, did relinquish the same, what should hinder but that which is thus derelinquished may be possessed by another?

This point of Succession, upon supposition that the pretended Prince of *Wales* Succession. was really born of the Queen, requires a Decision; for it happening before any Alteration actually made in the Government, leaves the Point to turn upon the change of the Peoples Will. Our Author here takes notice of an express and a tacit Change. That the People did in a publick formal manner change their Will as to the Succession, before the Birth of this Child, I cannot say; but it is certain, that they did generally shew their Aversions to such a Succession long before his Birth, and would undoubtedly have done it in a more publick legal Method, had they not been awed by an illegal Standing Army. As to a tacit Change of their Will, none can doubt, but it had a full Existence before the young Prince had his, bearing date from that day, wherein publick Prayers and Thanks were by order offered up for the Queen's pretended Conception, and may by this Parliament be accordingly so declared.

Grot. De Jure Belli, Lib. 2. Cap. 7. Sect. 26.

Similis est quæstio, an abdicari possit Regnum, aut jus succedendi in Regnum: & quin pro se quisque abdicare possit non est dubium: an & pro liberis, magis controversum.

ib. Illud interest inter Natos & Nascituros, quod Nascituris nondum quæsitum sit jus, atque ideo auferri iis possit populi voluntate, si etiam parentes, quorum interest jus ad filios transferre, jus illud remiserint: quo pertinent ea quæ derelictione supra diximus.

It is such another Question, Whether a King can so abdicate his Kingdom as to destroy the Right of Succession to his Son. That he may abdicate for himself is not doubted; but whether for his Children also, is the Question.

The Diversity depends upon the Childrens being born before or after the Renunciation; for those who are yet unborn, the People may deprive of this Right, because it is not yet accru'd, if the Parents, whose Interest it is that such Right should descend to the Children, do also remit it. To the same purpose is what has been said concerning Abdication.

Our Author does here again affirm a change of Succession to be lawful, upon the change of the Peoples Inclination. But he is also farther of Opinion, that a King may abdicate for a Child unborn as well as for himself. It is already sufficiently proved by the Authority of this Author, and others, That a Breach of the Office and Duty of a King, is an Abdication *ipso facto*; and if so, that of King *James II.* may bear date from the day he first erected the Court of *Ecclesiastical Commissioners*, establish'd a Standing Army in the Nation, or took those Customs, the Grant whereof expired by King *Charles* the Second's Death, and ought not to commence again till given by another Parliament. This was done in the very Infancy of his Reign, whereby his Abdication became an early Act, and did betimes cut off both such real and supposititious Issue, as might after pretend by Birth and Title to bring in Popery and Slavery into this Nation.

Grot. de Jure Belli, Lib. 2. Cap. 7. Sect. 27. N. 2. p. 186.

Si de primævâ populi voluntate (in Successione controvertendâ dictum)

If (in discussing of a Right of Succession) any Doubt does arise, it would be convenient

tum) quæstio incidat; non abs re erit, populum qui nunc est, quique idem cum eo qui olim fuit censetur, suum super ea re sensum exprimere; qui sequendus erit, nisi satis certo constet, olim aliam fuisse populi voluntatem, & ex eâ jus quæsitum.

ent that the People who now are, and may be supposed to be of the same mind with their first Ancestors, should express the sense of the Matter; which ought to be pursued, unless it be manifest, That the original Will of the People was otherwise, and from thence a Right was established.

Our Author, in his own Annotations upon this Paragraph, further adds, That such Disquisition may be made by Convention of the States (viz. *The Lords and Commons*) as it was in *England* in the Year 1571 and 1572, according to *Camden*. In the two former Paragraphs he puts Cases about the Change of a Succession, and resolves them; but by this, and by his Annotations thereupon, when any other Doubts shall arise concerning Succession, he leaves them to the Decision of the People, and particularly to the States of *England* by express name, as if they were more undoubted Judges in such Controversies than the States of any other Nation: And they, according to this Learned Author's Opinion, have regularly and justly proceeded to assert their own Rights, and to settle both them and the Succession of the Crown for the future, upon such an Establishment, that we may reasonably hope and believe, that all the Powers of *France*, or Prayers of *Rome*, nor the very Gates of Hell shall ever be able to prevail against them.

A

A Defence of their Majesties

King *W I L I A M* and Queen *M A R Y*,

Against an Infamous and Jesuitical Libel, intituled, *A true Portraicture of William Henry Prince of Nassau, &c.*

W H E R E I N,

- I. The Necessity of the Expedition ;
- II. The Piety of the Design ;
- III. The Justice of his Majesty's Proceedings, are fully Vindicated from the malicious Aspersions and wicked Forgeries of this French Monster.

The Epistle Dedicatory,

To his Grace *F R E D E R I C K*,

Duke of *Schonberg*, Marquiss of *Harwich*, Earl of *Brentford*, Baron of *Tey*, General of all their Majesties Forces, Major-General of their Majesties Ordnance, one of their Majesties most honourable Privy-Council, Knight of the most noble Order of the Garter, Count of the Holy Empire and *Merteola*, Grandee of *Portugal*, General of the Elector of *Brandenburg's* Forces, Stadtholder of *Prussia*, &c.

THE following Discourse was penn'd and english'd, with a design to do some Service to his Sacred Majesty ; and there being no Person to whom his Interest is more dear, and who can better vindicate it than your Grace, I humbly conceive, that 'tis not a Matter of Form, but of indispensable Duty, to chuse a Patron for the Work, who possesses so consummate Vertues, and especially so great Wisdom and Courage as your Grace.

Those Qualities with which You are endowed, as they have struck Terror into the most Potent Monarchs, cannot but work the profoundest Admiration in all unbyassed Minds. We have heard, and our Eyes have seen what Actions have been performed by the Prudence of your Grace's Conduct, and the Force of your Arms : How Spain has been made to tremble under the Apprehensions, and upon the Experience of the powerful Success of your Valor. There is something unspeakable in your Vertues that seems to be more than Human. Yet the Impressions that are left on Peoples Spirits, do sufficiently declare, that 'tis no common Hand that has performed so great Actions. To the knowing part of the World you appear, in Colours proper, to be one of the Deliverers sent in these latter Times to restore Christianity to its Liberty and Purity.

As Spain was formerly, so now France seems to be in a convulsive Motion and shaking Posture, to wait her Doom from You. All Eyes are open, and Expectations intent on this stupendous Event. The Christian World is in motion to compose the great Scene, and seems not only to contribute their Strength, but their Hearts to so great a Work.

'Tis true, tho some of the holy Profession appear to be of a contrary side, 'tis demonstrable your Grace will conquer all by Love or Fear. That Prudence that raised You up, will prosper your great Enterprizes. Your Grace has espoused the greatest and best Interest, and the supreme Proprietor will own both It and You. The Platform (we doubt not) is laid in Heaven ; all Actions must consequently tend to the Accomplishment of so great a

Work. Your share, Great Sir, will be very large in the Glory, seeing your Accomplishments for the Work are so extraordinary.

And whereas Truth and Justice are inseparable, your Grace being so renowned a Champion for the latter, it can be no ways doubted but that your Grace will, in conformity to the noble Principle of your Life, take this Essay in good part, and upon the account of the important Subject it handles, pardon all the undesigned Errors it may contain; seeing there was nothing in the Undertaker's view, but the inviolable Honour of their Sacred Majesties, of whose Rights your Grace, in the Opinion of the whole World, is one of the most unbyassed and undaunted Assertors. May the Great God, who has crowned his Majesty's Enterprises, and Your's, with such glorious Success, continue his powerful Blessings, and render his Arms prosperous, and your Grace's Concurrence always acceptable to Heaven, his Majesty, and the World; which shall be the continual Prayer of

Your Grace's most humble and most obedient Servant, R. S.

A Defence of their Majesties,

King WILLIAM and Queen MARY, &c.

THE Physicians have a very bad Opinion of that Disease that begins with most violent Agitations, with Tremblings that shake the very Bones out of joint, and extremely debilitate the Nerves with dreadful Convulsions, with frantick and extatical Indispositions of the Brain, that overturn the whole Oeconomy. They are never deceived in their Judgment, when they pronounce such Distempers Mortal. It is the same thing in States: their Diseases which begin with violent internal Agitations, are commonly Prefages of great Revolutions.

*State of
France.*

France is in this Condition; the Preparations that are made against her by all *Europe*, in a joint Conspiracy, threaten her with great Mischiefs; and there is nothing more effectual for fortifying the Hopes of the Confederate Princes and States, than the Convulsive Motions that are observed, not only in her Bowels, but in all her Actions. If we consider her Arms, nothing ever appeared so strange: *France* (altho it be as yet entire, and has not incur'd the loss of either Men or Provinces) is subject to all those Agitations to which she can be exposed, which would be infallibly improved into the last and fatal Paroxysm, if there were an Enemy in the midst of the Kingdom. She obliges all her Inhabitants to take Arms, she exhausts her Treasures to the bottom: Ruin and Desolation are the Blessings she leaves in those Places which she cannot keep; she is notoriously guilty of the most inhuman Excesses; for all the *Palatinate*, and almost all the Countries upon the *Rhine*, with their Towns and Castles, that are levell'd with the Ground, burnt and reduced to Ashes, are in such a Motion as cannot be imputed to any thing else but a Fit of violent Phrensy, which is so prodigious, that we cannot but see there- in the Characters of an internal Agitation, that is attended with the most dreadful Violence of all that has been as yet observed. Every Knight of the Post brings us an Account of Symptoms of this cruel Disease, which does expose her to such fearful Agitations, and threaten her with the most violent Death: and there is something that is singular in the violence of these Motions; and it is this, that the Revolution that has lately happened in *England*, by the wise Conduct of *William* III. King of *England*, does irritate them to so great an elevation of Fury. If his present Majesty had poured his Forces into *France*, and obliged that King to his Throne, the Rage would have been rais'd to such a pitch, as to admit of no Accession. The Piety, Clemency and Justice of King *William* (who now strikes *Lewis* with so great a Terror) is the august Subject of this Discourse. These glorious Qualities made manifest in his said Majesty's late Expedition into *England*, in opposition to the *French* Designs there, are the subject Matter of this small Treatise. Neither the late King *James*, nor the *Irish* and *English* Papists his Friends, were so hot in their Resentments as the *French*. There is something extraordinary in it; and this boundless Wrath of the *French* King against *William* King of *England*,

land, was possibly not so much kindled by the consideration of what he has done, as by the fearful prospect of what he can do: yet the most powerful Measures they can take for the overthrow of their own Interest, is to provoke an Enemy who is so potent at this day. It is possible that he is not altogether irreconcilable; they ought to be more careful to observe those just and decent Methods by which he is to be treated. The Designs of *France* afforded a necessary occasion for an Expedition, the whole course of which runs parallel with the Rules of Piety which inspire King *William's* Royal Breast.

Since the King was of the Years of Knowledg, there never passed one Year wherein he did not publickly receive the Sacrament several times; there passed not one Sunday on which he was not present at the publick Service and Devotions: He never heard a Sermon which touched him, which he obliged not himself to recollect, and upon which he made not pious Reflections: He never heard a Sermon, but with such Attention and Devotion, that made private Persons ashamed. He never went out in the Morning, without secret Prayer and devout Reading. And they who enter'd into his Closet, observ'd his Table to be adorn'd with Books of Devotion that were fit to nourish Souls. His generous way of interesting himself in all the Miseries that those suffered who were persecuted for the sake of their Religion, was a visible Testimony to all the World of the Sentiments of his Heart concerning them. We may say, that the Qualities of a Hero, and of a great Man, are chiefly due to himself and to his Blood: And God who took care for his Welfare, and of his Soul, besides other means of Princely Education, provided him an excellent Master in the things of Religion. And therefore from his Infancy he received the Seeds of Piety, which have sprung up to so great maturity as we see at this day. He affords matter of Edification to all Protestants who know him. He foresaw very well all that the Rage of the contrary Party could say against his Enterprize, which obliged him to deliberate on it for a considerable time; for he not only loved Virtue it self, but cherished the outward appearances of it. He had never overcome the Scruples that presented themselves, if the Security of Religion and of the State had not determin'd Him. As for the Queen, it is generally agreed, that there was never one more devout, nor more exact in the practice of her Duties towards God. Her Piety is not accompanied with the vain shew of Hypocrisy. She is great without being Proud: She has a natural Air; she appears in all her Actions without Affectation. She is tender and full of Compassion, and incapable of forgetting the Obligations of Nature.

K. William's Piety and Character.

Q. Mary's Character.

As for his Majesty's Expedition into *England*; First, It is requisite that we shew, that the Possessions and Affairs belonging to the Publick, are not governed as the Possessions of private Persons, and that we are not to judg of them by the same Rules. Princes, Kings, and in general, Sovereigns have Men and reasonable Souls for their Possessions; and private Men for their Possessions, have only Houses, Lands, Oxen, Sheep and Horses, &c. That if a private Person is of a bad Conduct, and does mismanage those Possessions which Providence has put into his hands, there will no other Inconvenience ensue thereupon, but only the disposition of some Lands or Movables, which, in respect of the Publick, will be altogether in as good, and possibly in a much better Condition, in the hands of those to whom the profuse Life of the last Proprietor brought them, than in his hands who made such a Disposition; and the Publick Laws have not established so exact Rules for hindring the Alienation of Lands, Possessions and Movables, as they have settled for preventing of the Ruin of the State, and the Dissolution of Societies. If Houses, Trees, Horses and Oxen had reasonable Souls, God without doubt had ordain'd Laws of Right to limit the Possession of the Proprietors. Thus the private Persons have a full right to do with their Possessions as they please, and to govern them according as it seems good to them, yet publick Persons cannot govern States and Societies according to their own Caprice, without any right left to their Subjects and Members to oppose and hinder the devastation thereof; and in some respects, even the Children of a House, and the presumptive Heirs of a private Person have a right to hinder the wasting of the Possessions that belong to the Family. It is very well known, that the Laws have allow'd means to Heirs, for the prevention of their own impendent Ruin; that they may not be bar'd of their Right to that Estate, which ought to revert to them. With far better reason may Princes, Heirs of Crowns and of Kingdoms, have a Right to hinder the Ruin and Devastation of those Countries, which they are to possess one day.

His Expedition justify'd.

David's
Practice.

Besides, there is a difference betwixt publick Possessions and those of private Persons. The Law and one's Birth give the latter without any reservation, but it is God and the People who bestow publick Possessions and Sovereignities; and with this reservation, that the Welfare and the Safety of the State and of the People is the Sovereign end of Governments and the Supreme Law. God, I say, and the People confer Sovereign Power, and bestow it on whom they please, without being oblig'd always to have regard to the Laws of Succession. *David* invests himself with the two Crowns of the People of *Israel* during the Life of the Children of *Saul*, who was their true and lawful King; and, which is more, the Children of *Jonathan* his incomparable Friend. The Laws of Friendship, and of such a Friendship as that was betwixt *Jonathan* and *David*, are at least as inviolable amongst honest Men, as the Relations of Son-in-Law and Father-in-Law: yet *David*, without any scruple, went up to *Hebron*, and made himself be crown'd King of *Judah*; and not content with this, seven years after he treats with *Abner*, General of the Army of the People of *Israel*, to draw them from their Allegiance to *Ishbosheth* the Son of *Saul*, their lawful King by Birth, by Succession, and by Possession; to oblige him to put the Ten Tribes upon revolting from their Obedience to their lawful Sovereign.

Solomon's
Practice.

If a People, in prejudice of an eldest Son, would establish *Cadets* upon the Throne; in the opinion of some byass'd Persons, Hell it self could not afford Colours black enough to paint the Rebellion, Enterprize and Attempt of that People: yet we may see how the People of *Judah* and *Israel* set *Solomon* on the Throne, in prejudice of I do not know how many elder Brothers of *Solomon*, all of them Men capable of Government. It may be objected, that God, who is the Disposer of Crowns, does bestow them on whom he pleases; it was he who gave the Crown to *David* and to *Solomon*, in prejudice of the true Heirs: he could do it. I find the Answer very good for the Objector, it is also for me; and it amounts to what I have said, viz. that God and the People are the Lords of Crowns, to give them to whom they please; God as the Sovereign Lord, the People as the Lords of their Possessions under God; God as the Lord of all Crowns in general, every People as the Lords of their own Crown in particular. Thus we find innumerable Instances in History of People who in their Families make one to inherit in prejudice of another, who prefer a *Cadet* to the eldest Son, and oftentimes the Son to the Father, because the Safety of the People and the Welfare of the Society does so require. The People go further, they transfer the Sovereign Power from one House to another. The *Jews* leave the Royal Family of *David*, and take that of the *Macabees*. The *French* renounce that of the *Merovingians*, to take that of *Charles Martel*; and at last forsook that of *Charles Martel*, who had Male Issue, to set on the Throne a third Race which reigns at this day. There is no State of which History is not full of such Examples; it will only waste time to set them down: and such an Action is the only Foundation of the Right, by which the Crown of *France* is held. Examples of this nature have the force of Laws; for the constant and perpetual Custom as well of the People of God as of other Nations, does make it manifest to us, that it is the Peoples right: and without enumerating Examples, good Sense and right Reason make a Law, and clearly declare, that since Societies do make Kings for their own preservation, they have a right to transfer the Power of the Government to him who is judg'd the most capable to preserve the Society and Commonwealth.

The French
do the same
in their
Successions.

God and
the People
give
Crowns.

If these two Truths be join'd together, First, that Kings are not Lords of reasonable Souls, as private Men are Lords of their Lands and of their Cattel; Secondly, that God and the People may of right bestow Crowns on whom they please; a third Position will result from both, viz. That the People, as well as the Church, is always a Minor; that Kingdoms are Pupils, that Kings are properly their Guardians; and that consequently in the same manner as it is permitted to presumptive Heirs of the Possessions of a Pupil, to hinder the Disorders and prevent the wasting of the Estate which belongs to him, or may belong to him for the time to come; so the presumptive Heirs of a Crown not only can, but ought by the Laws of Religion, of Piety, and of Conscience, to hinder Disorders, to preserve the Society which is going to ruin, and repress the Violences of him, who having in his hand the Sovereign Power, uses it to the destruction of the Publick. Tho the lawful Heir of a Crown should have no other Interest but his own, he ought to be allow'd to maintain and preserve it; much more and with better reason, when he has in his view the Interest of Religion and of the Kingdom: and there is no Relation, either of Son-in-Law, or of Father, or of Son, but ought to yield to so inviolable

inviolable an Obligation ; for we must love God and the Commonwealth more than Father and Mother : besides, this is not so much to love Superiors, as to abandon to them a Kingdom or a Church, for the common ruin and destruction thereof. It is to suffer them to take a full carier to Hell and Death ; it is to permit them to cover their memories with shame and infamy ; it is to assist them in a Conduct that renders them odious to Mankind ; and consequently to oppose their Disorders, is to wish them well and to do them good. Was it ill taken that the Dauphin *Charles*, who was afterwards King of *France* under the Name of *Charles VII.* made a Campaign with a considerable Army against his Father *Charles VI.* and that he oppos'd a Government that expos'd the State to ruin, and threatned the Kingdom with utter destruction ? and because *Charles* did not bear to his Father a base compliance by leaving him and his Ministers to commit what mischiefs they pleas'd, had *Charles* reason to disinherit his own Son, to set up a foreign Prince in the Kingdom, to make him be crown'd in *Paris* during his own Life ? Would *Charles* have done well to suffer such outrageous Mischiefs, because he receiv'd them from a Father ? Let us suppose a King who is not only profuse, but a Tyrant, who brings desolation upon the Community, who kills, massacres, who ravages all the State, who reduces it to the brink of Ruin without remission or concealment : Can it be believ'd that a presumptive Heir, tho he were even a Son, would be oblig'd to behold such Grievances without redressing them ? He that would persuade himself of such a thing, would justly deserve the Character of a compleat Fool. On the contrary, a Prince who is Heir of the Crown is obliged to join himself with the States of the Kingdom to disarm the Tyrant, and to deliver the Kingdom out of his hands, that it may not become a frightful Desert. Let us descend yet one degree lower, and suppose a King not so ill as the former, but who acts under the covert of some formality of Justice, who likewise might possibly have some good intention, but who nevertheless being possess'd with evil Counsellors, and blinded with a certain extraordinary Zeal, does lay the whole Kingdom desolate, and ruins the honestest Gentlemen of the Realm, depopulates the State by illegal and rigorous Proceedings that strike the whole World with horror, who lays an indispensable Obligation on his Subjects to desert him, by suffering unjust Judgments and Practices, violent Courses, Oppressions and Massacres ; by charging the Kingdom with such excessive Impositions, that it was very near involv'd in an universal ruin ; by sowing the Seeds of Rebellion over all, by exciting the hatred and horror of all foreign Princes, by unjust Wars, by breaking his Promises, by violating his Treaties, by infringing his most solemn Capitulations, by perpetual and violent Invasions of the Rights and Properties of his Neighbours, by drawing upon the Kingdom the dreadful Calamities of some foreign War, which threaten'd the State with imminent ruin : If such a King, I say, has been found of this stamp and conduct, the presumptive Heir, whether Son or Son-in-Law, would be indispensably oblig'd to take some course in such an exigency, and to oppose such mischiefs by force of Arms ; *First*, because every one ought to preserve and maintain his own Inheritance from violence and desolation. In Crowns that go by Succession, a Prince and Heir, during the time that he is yet presumptive Heir, has no right to govern, it is true, but has an undoubted right to demand a part in the Government, after he is past the years of Minority, and is arriv'd at those of perfect Maturity. A King who ruins his Kingdom, who slights and sends away his Son of sufficient Age to govern, and treats him as one of the Pages of his Court, may thank himself, if the Son does himself justice, and demands a little better information about the Measures that are taken in the Government of the Kingdom, which he beholds running against the fatal Bank, by the Male-administration of the Royal Pilot, and whereof himself is one day to be both Father and King. He meddles not in Affairs that do not belong to him ; for nothing can be more his Interest. Thus therefore a Prince, Heir of the Crown, has an Interest, that he may not inherit a vast Desert instead of a Kingdom, and that his Father by a violent Conduct may not leave him both his Subjects and Neighbours for Enemies, out of whose hands he cannot escape : there is yet a Reason and an Interest that is more considerable, and likewise more justifiable, *viz.* that of the Publick. The Laws of Charity do oblige all to rescue those that are in misery, and to deliver them from their Afflictions. A Prince, Heir of a Crown, ought to look upon all the Subjects and Members of the Kingdom as his Brethren ; he is oblig'd in Conscience to lend them his hand and save them, altho even his and their common Father be the Man who involves them in a common ruin. If an elder Brother sees his Father take his Children one after another, and plunge them in a River to drown them,

Charles VII. opposes Charles VI. of France.

Tyranny describ'd.

Charity obliges to relieve the Oppressed.

them, this eldest Brother is not bound to see his younger Brothers drown'd, without plucking them out of the hands of his Father, for fear of violating the Respect that is due to a Father: Humble Remonstrances towards a Father who is so unnatural are not enough; what he owes to God and to the Publick is far above all the Duties of Blood, of Alliance and Parentage. Here are two Interests, one of a Prince, and the other of the Publick, both together, which ought to oblige the presumptive Heir to repress the Violences of his own Father; because this King, whom we have last suppos'd, has fill'd the Kingdom with Malecontents, exhausted its Treasures by excessive Impositions, ruin'd it by Proscriptions and Depopulations, made all the neighbouring Princes his Enemies, and does thereby make way for a mighty Revolution, which may preclude the lawful Heir from his Right, and reduce his Kingdom either to an Anarchy or a Civil War, or make it pass into the Possession of Strangers. This is clear; for an oppress'd State, such as we have suppos'd (attack'd by Enemies which their King's Injustice has procur'd) will be sure to give a joyful reception to a foreign Power, that shall make an entrance by force of Arms, and look upon them rather as their Saviours than Enemies. They will say, and will have reason to say, that they can be no worse treated than they are, that they can lose nothing by changing their Master; and the Truth is, a Stranger entring into a Kingdom has nothing else to do but to proclaim Liberty, every one would hasten to come under his Banner: and from this would ensue the desolation of the Realm by a Civil War, or the ruin of the Government, which would pass into their hands. A Prince, Heir of the Crown, is not oblig'd to be a Spectator of so pressing and so great dangers, without applying a Remedy thereunto; if he be always patient, the Enemy will come, the Malecontents will join in a Body with them, and he will be depriv'd of those means whereby he might justify his rightful Pretences to the Crown, or at least the Kingdom will be left to him distracted and divided into a thousand Factions, one Party favouring the Stranger, and another taking the part of the lawful Heir; just as it happen'd under Charles VI. and Charles VII. the English possess'd themselves of the Kingdom, some took his part, and others were against him, and the Kingdom began to sink under the weight of that dreadful War. It is then clear, that in such a case a Son, after having made respectful Remonstrances to his Father, and having made him sensible of the formidable Disorders occasion'd by his ill Conduct, may with a good Conscience make use of Force to deliver the Kingdom out of the hands of one who devotes it to ruin, who lays it desolate, and does transubstantiate it into a Desert, and who by the ill Measures he takes, does evidently expose it to a foreign Invasion.

K. J. asled
arbitrarily.

Now it is certain, that King James was destroying the Kingdoms, Bodies Politick and Natural, by his Mismanagement of the Government, his Violation of the Laws, and making himself the Arbitrary Judge of their Sanction and Observation, dispensing with them at Pleasure, by depriving them of their Authority, by putting honest Men out of their employs, and bestowing those Offices on Men who were by Law incapable of exercising the same, by taking off innocent Persons. This directly tended, first to the ruin of the Religion that was by Law established; for he deprived Protestants of their Offices, on purpose to bestow them on Roman Catholics, who were Enemies to the Protestants and their Religion; he violated all manner of Laws as he pleased, he filled the Kingdom with Priests and Monks, he made the Exercise of the Popish Religion publick in all Cities and Counties, he gave to the Jesuits the Colleges that were of Antient Foundation, and allowed them to found new. He ordered Churches to be built for them. The Jesuits open'd Schools in London. A Jesuit sat in Council, and was the first Minister of State. The King sent Ambassadors to Rome, and had Ambassadors sent to him from thence; and all this against the express Laws of the Kingdom: and that he might do all these things securely, he maintained a powerful Army in time of Peace, which is also contrary to the Privilege of the English People. This Conduct tended to the overthrow of the Monarchy, as well as of the Church. A Civil War was unavoidable in a little time, England's patience was come to an end. The Kingdom was fallen into the same condition it was in, in the time of King Charles I. It is possible, that King James II. would have incurred the same fate with his Father, and without doubt the Fanatics would have made themselves Masters of the Government, to the Exclusion of the Lawful Heir. Thus his present Majesty for the preservation of his Religion, and the Crown to which he had a good Title, and which ought in that juncture to be reduced into possession, was obliged to put a stop to the current of those Mischiefs in the Fountain; he endeavoured to do this by moderate means. He

K. Wm's
Title to the
Crown.

He passed into *England* to curb the immoderate Power of his Father-in-Law. This Father-in-Law could not endure to receive Law from any one. He fled, he abdicated the Throne. The Nation filled it with him who was come to deliver them, his Majesty King *William* accepted the Crown; it had been a cruel peice of Piety to behold the Bowels of the State torn, the Religion of the Kingdom perishing, the spilling of so much Blood, the oppression of so many innocent Persons, so many Families reduced to Beggery, and the right of the lawful Heir exposed to evident ruin, for I know not what respect to Relation and Kindred. *Brutus* and *Manlius* were praised for not having spared their own Blood, and for having punished by death the Rebellion and Disobedience of their Children. God is our first Father, our Country is our principal Mother, there are no Relations or Alliances which ought not to be sacrificed to these great Names.

Besides these general Considerations, there are also particular ones, which are no less proper for the justification of their Majesties of *Great Britain* and *Ireland*. The first is, that King *James II.* was not lawful King, altho he was acknowledged by the three Kingdoms, he had drawn the Subjects of those three Kingdoms there-to by surprize; being a Papist he could not be the King of *England*, the People and Kings annex to the Succession of the Crown what Conditions they think fit. Since *Henry VIII.* all the Kings and Queens of *England* (*Mary* excepted) were Protestants, that is to say, Enemies to the Papal Tyranny; this was a Quality annexed to the Crown of *England*. All the Laws forbid the acknowledgment of the Pope for Head of the Church, and Vicar of Jesus Christ. They make the King of *England* Head of the *English* Church, and it's High Treason to say otherwise. It is true, that *James II.* made a shift to thrust himself into the Throne in spite of all these Obstacles; for the removing of which all imaginable diligence was used, false Promises and false Oaths were not wanting. It is known what were the Sentiments and Interests of those who were assisting in such a Violation of the Laws. It is not necessary to make mention of them in this place, altho the Violation was nothing else but a suspension; for the Laws were not abrogated, and tho they had been so, the *English* would always have had a Right to retrieve and re-establish them, which were made for the security of Religion. They enacted, recognised and declared, that to be King of *England* and a Papist are Qualities that are absolutely incompatible; and they were no ways to be blamed, for the thing is plain, and his present Majesty had reason not to abandon to another the Succession that belonged to himself and his Royal Consort, who have the same Qualities and are of the same Religion as is required by the Law, and who moreover are the lawful and next Heirs. It is not the first time, that the Children have taken the room of the Father, whom the Laws and his own personal Qualities excluded from the Enjoyment of the Rights and Possessions which his Birth had allowed him.

A Papist
cannot be a
true King
of Eng-
land.

After all, we must know that the *English* Government is not in the hands of one Person; there is one King, the King is Sovereign, but he is not in the Possession of all the Sovereign Power; He who cannot make Laws nor break them, is not in the Possession of Arbitrary Power. The Parliament partakes of the Legislative Authority with the King. The People have their Privileges, which the King and Parliament cannot take from them. If for example a Parliament should treat with the King, for making an absolute change of the form of Government, for abolishing the use of Parliaments, and for depriving the People of all their Privileges, Charters and Immunities, the People might justly provide against these Violations. *James II.* endeavoured to cancel all the Privileges of the Nation, but durst not disannul Parliaments; but he dissolved them, and caused them to be dissolved by his Brother, as soon as ever the Parliaments did any thing that displeased him. He deprived the Corporations of their Charters and Privileges. He obstructed free Elections; he took upon him a Power of dispensing with the Laws, and of acting in a direct opposition to what was thereby ordained. He was not legally impowered to proceed so far, and therefore he transgressed the due Bounds, and thereby put the Nation in a rightful Capacity no longer to acknowledg him: for it is certain, that in all Relations, of Father and Son, of Wife and Husband, of Master and Servant, of Subject and King, where there is an express Contract, and certain Conditions laid down, when one of the Parties happens to violate the Contract, and to be wanting in the performance of the Conditions, the other Party is no longer obliged.

Legislative
Power in
Three.

The Lawyers Maxim, *Princeps Legibus solutus est*, has no place here; by the Prince is understood one that is Sovereign, and a Magistrate that is absolute without limitation.

Objection.

tation. Unhappy are the People who have got such Masters, who have suffered their Privileges to be disannulled; but the People and the Nations which are so happy as to preserve the Bulwarks, which, in the Establishment of their Monarchy, have been raised against the Ambition of their Princes, are very Wise in maintaining them. The King of *England* does not boast, that he is above the Laws; for he is obliged to reign according to the Laws: if there be any Sovereign in *England*, who is above the Laws, it is the Parliament and the King together. This Sovereign makes Laws and repeals them, and so is not bound thereby; but the Parliament alone can neither make nor repeal Laws, neither can the King alone do it. So that the Words of *Camden*, concerning the Authority of the Kings of *England*, do not take away the Rights of Parliaments and the Privileges of the People, that are publickly known; seeing the Kings of *England* are bound to reign according to the Laws, there lies no obligation upon the People any longer to acknowledg them, when they raise themselves above the Laws, and have no regard thereunto.

Princes limited by Law.

Indeed a modern Writer has said, that Protestants may be trusted, because they swear Allegiance to the Prince without reservation; but we swear Allegiance without reservation, only where the Law does not annex it: and where the Princes have their bounds limited by the Laws, our Religion does not at all oblige us to make Oath of Fidelity without reservation, and without condition; since the Kings of *England* themselves, in conjunction with their Parliaments, have annex'd certain reservations to the Oaths of Allegiance, which they require from their Subjects. We do no ways believe, that the *English* violate their Oaths of Allegiance, when they think that they are free so to do, by the Invasion that their Kings make upon the fundamental Laws of the Realm. From all this it follows, that the *English* Nation did justly look upon King *James II.* as incapable of the Crown, because of his Religion, and as fallen from his Rights by his violation of all the fundamental Laws; and consequently *William III.* his Son-in-law, and *Mary* his Daughter, now King and Queen of *England*, possess the Crown most lawfully, which returns to them by Right of Succession, and which was confirm'd to them by the unanimous Consent of the three Estates of the Kingdom; they did not trample upon the Respect which they ow'd to him who was their Father, or held the place of a Father, for nothing is owing to a Father in prejudice of the Rights that are due to God and our Country. They committed no Violence as a means of coming to the Crown, for they first receiv'd it from a free Convention; they did nothing against the Commands of *St. Peter* and *St. Paul*, of being subject to the Powers, for neither *St. Peter* nor *St. Paul* had any design of establishing the arbitrary Power of Kings (whose Authority is limited by the Laws) nor of favouring Tyrants.

Pr. of O. vindicated about the De Wits.

Now as there have not been Men wanting to misconstrue his Majesty's late Expedition, so there have been some of his Majesty's Enemies, mention'd at the beginning, who charg'd the Misfortunes of the two *De Wits*, Anno 1672. on the then Prince of *Orange*. But it is known to all the World how the matter went; it happen'd by a popular Commotion, which was, like Gunpowder, kindled and spread in a moment. It is true, that the two *De Wits* were accounted Enemies to the Prince. It is true, that there were two Parties form'd in the State, one against the Prince, and the other for him; but if things had gone well, and the Order which the *De Wits* had given for the preservation of the Country had succeeded, no Person had ever mutter'd against them; but unhappily, the State was without any Defence, without Arms, without Forts, without Forces, without Alliances, which afforded the *French* an Opportunity of marching into the very Heart of the Country, leaving nothing but Desolation behind them. Those who were at the Helm were narrowly look'd to, whether they were to blame or no; the People thereupon were enrag'd against those who had the management of Affairs, they made a general Insurrection in the Town against the Magistrates: It was much less for the Prince's Interest, than for their own, that there was such an uproar amongst the People; the Mobile had been little enough concern'd who govern'd, provided the Government had been in Safety: Hitherto the Government of the *De Wits*, as it had been happy, so it had been attended with Tranquillity. But in the year 1672, the Government of those Gentlemen was extremely unfortunate; the People, who peremptorily reckon'd the unhappy Success of the measures they took, to be an effect of their Mismanagement of Affairs, fell upon them, and spent all the Magazine of their Rage against them. And it was the K. of *France*, to whom the *De Wits* were indebted for that tragical Execution; it is he, who by his unjust Enterprizes and his happy Success did provoke the People's Patience to the last Extremity, and oblig'd

oblig'd them to avenge themselves by Force on those who had so very ill provided for the Safety of the State. The Prince was no ways concern'd therein but accidentally : if he had had the Administration of Affairs for some Years before that ; if he had been mistaken in his Measures, as they had been ; if the King of *France* had met with the same Success after the Administration of the Prince of *Orange*, that he had after that of the *De Wits*, it is certain, that the Prince of *Orange* had been in danger of having been the object of the Peoples Fury, as those Gentlemen were. But it is well known, that this is the usual manner of popular Commotions, that when they make an Insurrection against one, they make a Bulwark of another : expressing their Fury, because the Government, being altogether a Republick, had not provided against those extreme Grievances which they lay under, it was easy for them to find at hand the Name and Person of the Prince of *Orange*, to whose Family, upon former Considerations, they had the greatest Obligations ; and therefore their Acclamations for the Elevation of the Prince, were mix'd with Exclamations of Fury and Rage against the *De Wits*. It is the greatest Injustice to charge this as a Crime upon a young Prince, who then, being but a Youth, had given proofs of his Wisdom, and of a consummated Moderation. Neither have I heard that in *Holland* any of those who were the greatest Losers by the Death of the *De Wits*, and the Change of Government, did entertain the least suspicion thereof. The Battel of *St. Denis* is also objected, which his present Majesty gave at the very time when the Treaty of Peace at *Nimeghen* was concluding, in which seven or eight thousand Men were kill'd on one side and other. His Majesty was not at all oblig'd to know that the Peace was concluded, and it is well known that he was extremely condescending to make the best Conditions he could : If the Advantage had been more compleat, and the *French* Army had been entirely defeated, it had very well appear'd that the Action had not been so ill constru'd. The Peace was sign'd at *Nimeghen*, but it was not ratify'd ; and until the Ratification of a Treaty, there is always time allow'd to the Parties to change their Councils, either for the Confirmation or Relaxation thereof. From the same Source does proceed another Charge against his Majesty, in favour of a little Gentleman, call'd the Prince of *Wales*, as if he had been look'd upon to block up his Majesty's way to the Crown ; but the true Heirs of the Crown had no ground to believe that the pretended Prince of *Wales* did block up their way to the Crown. He was very far off, he was born a Papist, he had the Pope for his Godfather, he was naturally excluded from the Crown of *England* upon that score ; and the Party which had set up *James II.* upon the Throne, tho a declar'd Papist, could not maintain their Pretensions for any long time. *James II.* had supported him by his Forwardness, by his Intrigues, and by his Army. On his Death or Overthrow by some Blow, the Stripling's Aspect would have been soon chang'd with his Fortune. This young Popish Prince surviving either a Minor, or destitute of Strength and Wisdom for supporting himself, could not maintain his Point for any long time against the known Laws of the Country, against the People and against the Religion of the Land, and the lawful Rights of the Princesses : besides, a Birth so obscure and so destitute of good proof, could not be maintain'd against the manifest and profess'd Birth of the two Princesses, who were lawful Heirs. This Prince of *Wales* would have been oblig'd one day to prove his Birth against the two Princesses, who would dispute it ; and it is very probable that he would have come but ill off. I do not at all doubt, but that his Birth, whether true or suppos'd, oblig'd the Nation to be more urgent in calling for his present Majesty's Assistance : So long as they saw none else seated upon the Throne but a Popish King, on whom old Age, and consequently Death, was making its near Approaches, they might have patience, in hopes of seeing, within a little time, Protestant Successors in the possession of the Crown. But when they perceiv'd that a new Prince was trump'd up (who, in all probability, was nothing else but a *Chimera*) to perpetuate the Popish Religion on the Throne from Generation to Generation, they were awaken'd, they thought of their own Safety, they implor'd help from their Deliverer ; they had reason to crave it, and his present Majesty had reason to grant it, for it was a perillous and pressing Juncture ; and it was not to be expected, that the People, who accusom'd themselves to every thing with time, would enure themselves to bear with a presumptive Heir of the Crown, set up in favour of a Religion, that is a mortal Enemy both to the Peace and Religion of the Realm.

Of the Battel of *St. Denis*.

Of the pretended Prince of *Wales*.

I intend not here to set down the Process of the supposititious Birth of the Prince of *Wales*, nor do I think it necessary. I shall only make some Reflections on it ; all

Suspicious about his Birth.

Europe knows, or ought to know, that King *William* and Queen *Mary* were the last who entertain'd this supposition. It is manifestly known to the World, that the Report was universally spread throughout *England* and all *Europe*, from the time that there was any talk of the Queen's being with Child, of her Vow to our Lady of *Loretto*, of the rich Presents that she sent thither, of the *Bath* whither she went to prepare her self for pregnancy, of the King's Journey to the *Bath* to visit the Queen, of the Rumour that was spread abroad immediately after that, of the Queen's being with Child; not only all the *Protestants*, but all the *Catholicks* of good sense, who gave no great credit to the Miracles of our Lady, look'd upon all as a Prelude to the Comedy that was to be acted. All *England* is witness, that during all the time that the Queen was with Child, the City of *London* and *Whitehall* were full of Satyrs and Lampoons in Verse and in Prose, *Like rude Serpents they flew about, not sparing the Queen's Petticoats*; her Pregnancy was ridicul'd. And it is also known, that not only the Mobile, but all Persons of the greatest Note in the Kingdom had the same Suspicion.

Witnesses
wanting.

Pr. of O.
demands
Proofs.

My second Reflection is, that the Prince had all the reason imaginable to conceive a suspicion of this Birth, in consideration of the Quality of the Witnesses who were summon'd to attest it. It is well known, that neither Princess *Ann* of *Denmark*, nor any of the Friends of the present King and Queen, nor King *James's* Enemies were call'd to be by; and it is as well known, that the Bishops were put in the Tower some days before. It is known that the Queen was brought to Bed when she thought fit, and that she went for that end to *St. James's House*; it is known that she made two reckonings within the compass of a Month, and there was good reason to suspect that she took an Advantage from it, to take the most agreeable Measures for the management of the Intrigue. When there is but one Reckoning, all things requisite are not always in readiness against the nam'd time, for an Action of that nature. It is universally known, that King *James* and his Queen were inform'd of all the Reports that were spread abroad, that the Queen's being with Child was a sham, and consequently they were oblig'd to use all imaginable precaution, to work an assurance in Peoples Minds that it was genuine; they would not do it by any means, they encreas'd the Suspicion by this neglect. Seeing there are so great reasons to call it into question, could his present Majesty be blam'd for endeavouring to be well inform'd of the Affair, for requiring that the Business should be examin'd in Parliament? He does not at all affirm that the Prince of *Wales* was supposititious, he only demands an assurance of his Birth; there is nothing more just and natural. At that time his Majesty had not as yet seen the Depositions which *James II.* caus'd to be taken thereupon; but if he had seen them, they were not capable of affording him any assurance: for first, there were none almost found among the Witnesses, but such as were suspected Persons, Officers, Pensioners, and the King's Domestick Servants; Secondly, all that the Queen Dowager, the most part of the Lords and Ladies said, may be true, and yet the Child that was born not be born of the Queen; for the Assistants who are at the Beds Feet, and in a Corner of the Chamber, know not what is laid in the Bed, nor whence it came which is taken out of it. In the last place, the Depositions that were taken in the King's Presence, are for that very reason altogether invalid and insufficient. This is a ground good enough for what the Prince says in his Declaration, which is the most plain and the most modest imaginable, *That there are great Presumptions that oblige us to believe, that these evil Counsellors (for promoting their own pernicious Designs, and for gaining of time to execute them) spread a Report, that the Queen was deliver'd of a Son; that during this pretended Bigness of the Queen, as well as in the circumstance of the Birth, and the methods that were us'd for the management of it, there appear'd so many just and visible Suspicions, that the pretended Prince of Wales was not brought into the World by the Queen.* There could no less be said upon so important a Subject. King *James* ought to justify himself from this in the face of the World; Are not Princes to take care of their Reputation? Is it not this that secures them? How could King *James* think to be free from being insulted over by a Nation, which look'd upon him as a *Master of Intrigue and Audacity*, and as an unnatural Father and Prince? And there is no Prince in the World, against whom we can more reasonably conceive this Suspicion; he who runs the risque of losing three Crowns, and at last did really lose them for his Religion, does in effect shew that he had it, and that he was not like his Predecessor who had none: but likewise the same thing gives us to understand, that he could venture all other things for the sake of his Religion; for Men of the World, who dare run a risque of losing their Crowns to compass

compass their ends, may very well venture their Reputation, the Blood of their Subjects, and all things else to satisfy their own humour: Indeed the rest of his Conduct made it appear, that he was capable of sacrificing all, even to his Conscience, for the sake of his Religion. His Majesty's Moderation having sufficiently appear'd in his Conduct in the foremention'd Passages, there follow some instances of his Majesty's Justice in his late Expedition; who, as has been said, acted first as the presumptive Heir of the Crown, at least under the Title of his Royal Consort, and that in this quality he justly provided for the security of the Kingdom, which was to descend to him one day. He hinder'd the subversion of the Laws and Religion, and justly, tho it had been in opposition to his own Father, if *James II.* had been such. I have prov'd, that a Son and Heir of a Kingdom is oblig'd, by his own Interest, by that of the People, and by what he owes to God, to oppose a Father who brings the Realm to eminent Ruin, and reduces the Religion to a State of Desolation. Secondly, his present Majesty did bear the Character of an Enemy, not to King *James*, not to the Nation, but to the Tools his Father-in-law made use of for the overthrow of Religion and the Laws. He pass'd not into the Kingdom forcibly, as the General of the *Dutch* Army; he enter'd in his own Name, to declare War against the Enemies of the Kingdom and of the *Protestant* Religion, who had rais'd an Army for the subversion of the Laws and of the Church. Thus by the Laws of a just War, if ever there was one such, he could summon his Enemies to lay down their Arms, to yield themselves for avoiding the Effusion of Blood; he could demand Assistance and military Aid from all those who lov'd their Liberty and Religion. When a King is become the Enemy of the State, of the Laws and of God, there is nothing then owing to him; and *James II.* was such an one.

We come to another thing, *viz. That which King William III. did at his first Arrival in England.* His Design being lawful and just, *viz. for setting up a Standard for Liberty, and declaring War against the Enemies of Religion and of the Laws,* he was oblig'd to do whatever tended to that end. It was no Usurpation of the Royal Authority; it is a circumstance, the nature of which does depend on the ground on which the Expedition was founded; and therefore, upon the plainest reason, we may see who is in the right and who is in the wrong, in this matter. As to the Refusal of the Mayor and the Clergy of *Exeter*, to execute the Prince's Orders, for acknowledging him, and opening their Churches, this is of no advantage to the contrary Party, nor does contribute any-wise either to the Honour or Disgrace of the Magistrates and Clergy of that City; but this reflects on *James II.* for that Reservedness was an effect of the dreadful consternation that they were in, and which was occasion'd by the Calamities that King *James* had brought upon that and other Countries in the *West*, after the Duke of *Monmouth's* Defeat. The Trees and the Ways were as yet generally cover'd with the dead Bodies of those poor Creatures, who were made Sacrifices to the most cruel Rage that ever was exercis'd. It was judg'd sufficient, that the Magistrates and the Canons of *Exeter* were held under that Fear; for so soon as they saw themselves secure by the Arrival of the Prince's Forces, they express'd their Joy by such transcendent Marks, that evidenc'd the transport they were in; yet they did not cease to pray to God for King *James*, till the Convention gave order concerning it. The Prince of *Orange* did not act as a King at his first Arrival: We have not heard that he seiz'd any part of the Royal Revenue, and it is not but that he had just cause enough so to do. For those who manag'd the King, and tyranniz'd over the Kingdom, did convert the same to pernicious uses, for the oppression of Liberty and Religion; he might very well, without Injustice, take it out of their hands. There follows now a Narrative of what the Lords *Hallifax*, *Nottingham* and *Godolphin* said to the Prince, in pursuance of the Commission that they had from *James II.* and of the Answer they receiv'd; and it amounts to this: The King declares to the Prince, that he consents to the calling of a Free Parliament, and said, he had appointed Lords Commissioners to adjust and regulate with the Prince, all those Points that were necessary, as well for the free Election of Members to serve in Parliament, as for the Security of the next Sessions. The Prince does propose such Conditions as were most equitable, and most necessary for his own and the Publick Safety. The Prince demands, *That the Papists be put out of Places of Trust, and that they be disarm'd*; there could not have been security enough for himself and his Friends, if the Papists had continu'd in Offices, and in Arms, with their Swords in their hands.

*Pr. of O's
Actions on
his first
Landing.*

*Desires Pa-
pists to be
put out of
place.*

He requires, that all the Proclamations, in which his Friends had been declar'd Rebels, should be revok'd and annull'd. How could a Free Parliament have been call'd, and what Equity could the Prince have expected from the same, if all the Peers and Gentlemen, who had declar'd for him, had been excluded from sitting in Parliament, as being Rebels? He requires, That all those of his side, who had been taken, should be set at liberty: How could he provide for the security of the Laws and Religion, so long as those who had come over to their Deliverer's side, were to be treated as Criminals? and if they had been really chargeable, was it ever requir'd of a Prince who has his Sword in his Hand, that he should condemn himself, and give his Consent that those who adher'd to him should be treated as Traitors? The Prince demands, That for the security of the City of London, the Custody and Government of the Tower should be committed to the said City: It had been ill, that in so nice a juncture, King James had remain'd Master of the Tower, to be in a capacity to destroy the City of London, and to reduce it to Ashes, so soon as ever he should attempt to favour the vigorous Resolutions of a Parliament. If the Prince had demanded that the Tower should be put into his own possession, it had been unjust; but since his Intentions were to take such measures, and use such means as tended to the security of the Peoples Liberties, it was absolutely necessary to secure all those Places of Strength, which were made use of for destroying the Liberty of the Subject. The Prince desir'd the King to withdraw from London, during the holding of the Parliament; or that, if he inclin'd to stay there, it might also be allowed, that the Prince should be there, with an equal number of Guards: a very just Demand. The Prince was not oblig'd to leave King James in a capacity of exercising an absolute Power over the English, as well as the Scotch Parliament, whilst he abode at London with his Guards, who would not have fail'd to convey to the Tower all such Members as should presume to declare themselves to be of an Opinion, that cross'd the King's Interest and Intentions: King James and the Prince were at that time, as two Parties at Law, in a Suit that was to be heard and determin'd in Parliament, and of which the Parliament was the only competent Judge; and consequently, it was necessary and equitable, that the Parliament should enjoy an entire Liberty: This could not be, unless he did overthrow or permit the Prince to be near to stand by his Friends, as the King was desirous to defend his own. The Prince requires that both the Armies should march forty miles from London: The Prince could make no Demand more equitable, to the end that the Parliament might be left in full Liberty. It was not requisite, that all King James's Forces should have encamp'd round about Westminster, and that the said King with his Sword in his hand should have forc'd the Parliament to condemn the Prince of Orange, and all his Friends as guilty of High Treason, to be cut in pieces. In the last place, the Prince of Orange does demand, That to prevent the Descent of the French, Portsmouth might be put into the hands of a Person, who might be trusted both by the Prince and by the King: It was one of the most just and most necessary precautions in the World. It is unknown to none, that King James had Intelligence with the French, with a design, by their Assistance, utterly to subvert Religion, Liberty and Property. The World was sufficiently inform'd, that after the Report was spread of the Prince's Expedition, it was several times deliberated upon in Council, if they should receive the French Forces. It was known that the Papists did mightily press King James to consent thereunto, and that the said King did only refuse it, by reason of the fear he had of a general Revolt of the Kingdom. Had he not been very imprudent to leave in the said King's hand, during the sitting of the Parliament, the principal Port of the Kingdom, that was open to receive Strangers, with whom it is very well known, that he had conspir'd for the Ruin of the Prince and of the Kingdom?

It was very impertinently said (by a certain foreign Scribler, speaking of the Prince) his Principality of Orange, as a Title, had not justified his raising of an Army to reduce the King of England within due limits. Was it not extremely needful to give this publick Advertisement, and this very advantageous precaution in this matter? Without it, there would have been some sort of Folks, without all doubt, who would have said, why had not William of Nassau a Right to dispute the Crown of England with King James, seeing he was already Prince of Orange before? Does not the Principality of Orange give a very good Title to the English Crown? This Author wanted an occasion to make a Defence, by the by, for the King of France, for the ill Services he has done his present Majesty in that Principality; and therefore

fore he was obliged to bring in the Principality of *Orange* in this place, only for this End, that he might have the occasion to say, that *William Henry of Nassau* was justly deprived of his Principality, because it belonged to the House of *Longueville*, which descended from that of *Chaalons*; whereas the House of *Nassau* had only kept it by mere Usurpation. The French Court was resolved too late, to do Justice in this Affair to the House of *Longueville*. *Henry IV. Lewis XIII. and Lewis XIV. himself*, were very backward in rendering to their Subjects and to their Servants, that which appertained to them, and in accommodating the Differences that have been depending amongst them. The Truth is, if this pitiful Scribler had been wise, he would not have touched upon this Point, and would not have recalled into mens Minds such Ideas as cannot take place without causing Horror and a just Indignation. To restore to the House of *Longueville* a Possession that so justly belonged to them, it was not necessary to lay it desolate as they did, to demolish and raze the Castles, to level the Walls with the Ground, to plunder the Town several times, to quarter an Army at discretion in a small subjected Country, and which never made any Resistance; to imprison the principal Inhabitants of that small State, and to commit against them the utmost Violences. It is not to *Orange* only that his Majesty has found Pretenders. In *Burgundy*, in the French County, and every where else where King *William* had Possessions and Lands, there were not wanting Houses of *Longueville*, in favour of which the Lands of the Prince were seized, with which the Usurpers had nothing to do; and by such base Artifices as have begot the hearty Concern of all Princes. They opposed *William of Nassau* on all occasions when he could not defend himself, without ever declaring War against him. These are Instances of a base and unworthy Revenge for two Kings to take: For the English King was in League with *Lewis*, to abandon his Son-in-Law to Rapine and Desolation. This is one of the Obligations that the Son-in-Law has to his Father-in-Law, and for which publick Fame bears him upon her Wings for a stupendous Example of Ingratitude. The Prince has already sustained Damage enough in his Principality of *Orange* and Lands of *Burgundy* by his Father-in-Law's good Offices: But I cannot say but he will demand new Costs and Charges at the hands of the most Christian King. We shall see, if he can hold out to be as easily victorious over *William the Third King of England*, as he laid desolate the Possessions of *William of Nassau* BURGHER of the *Hague*, for so the Prince was called at *Paris*. This *Burgher* of the *Hague* begins now to strike Terror into the Grand Seignior of *Versailles*, who has been so terrible to many; and I am very apt to think that his Fear will not prove to be in vain, and that the mighty Monsieur shall not escape so.

Pr. of O's
Title to the
Principality of O-
range.

The same Author tells us, that we must shew standing Laws that allow a Son, as the next Heir to the Crown, to make himself his Father-in-Law's Judg, to invade his Kingdom with a Fleet of five hundred Ships. Indeed this Orator would not have done amiss to have spared his Breath, to have reserved his Rhetorick and his Eloquence to answer the Demands that *William of Nassau* in all likelihood will make, e'er it be long, to *Lewis XIV.* for if it should so happen that he prove the stronger one day, he has very good reason to call him to an account, and ask him, by what Laws he invaded and retained *Lorain*, and possessed himself of *Strasburg* in the time of Peace? by what Laws he laid the Principality of *Orange* desolate, and treated the same as a Place subjected to him by an absolute conquest? why he reduced the *Palatinate*, and the Towns and Villages on the *Rhine* to Ashes, treating it as a Country destined by the most savage Proscription to perpetual Desolation? and why he seizes the Possessions of every one, and keeps Faith with none?

The French
Scribler
refuted.

This insolent Author repeats the Case of the *De Wits*, and imputes the Misfortunes that befel them and others to King *William*, whom he alledges to have managed the Multitude for the accomplishment of his Designs. But was it during the Years of his Minority, or after they were past, that he gained the Multitude? Did he court that small People? did he require any thing of them? did he complain to them of the Wrongs that had been done to him? was there one Man of that People to whom he was personally known, or with whom he had the least Conversation imaginable? As for the then deposed Magistrates, if they were established by Law, they were laid aside by Law: This is done by the Order of the States of *Holland*, who are the Sovereign Governours of the Province. This was to put a stop to the Rage of the People, who being reduced to the brink of Destruction, seized on the Magistrates right or wrong. There were no other Means left of dispelling that Mist, but by changing the Governours. And, to be short, this Bu-
siness

Dutch Fleet
lost in
1683.

business was not carried on by a sudden Enterprize, but was managed with a great deal of Prudence. All the Magistrates who were rejected, were Enemies to the Prince; who being invested with the Office of General Stadtholder, and placed at the Helm of the Government, was obliged to put in such Magistrates as were on his own side, otherwise they had torn the Commonwealth by their contrary Methods, and the State would have been thereby infested with such Divisions as would have exposed it to unavoidable Ruin. As for the Elections in their Cities, the Prince in managing them used no Force, made no use of the settled Army; he besieged no Town, imprisoned no Person by his own Authority. When there was a design of putting into Offices such Persons as could not have that Correspondence with him that was necessary amongst the Governours of a Commonwealth, he only made use of the Authority of the States, and of the Court of Judicatory, according to the Laws and Rights by which he held his Office and his Character. *Great were the Cries and Lamentations* (saith the same Author) *for the Ships that were destroyed, which he had disposed of without the Consent of the City of Amsterdam, to which they did belong.* He means the Fleet that was cast away returning from the Sound in the Month of November, Anno 1683. This Man has impudence enough to impute to the Prince, the Shipwreck of all the Vessels that have been lost by stormy Weather since the Year 1672. and to think him answerable for all the Works of Heaven. If the City of *Amsterdam* had not advised the sending out of that Fleet, his Consent could not have been necessary. When the Charge of a Naval Force is computed and agreed upon by the States, it may be disposed of by the Admirals and the Admiralties, according to their own Prudence, with the Suffrages of the major part of the Council, for the good of the Commonwealth, provided they do not engage in a War without their Consent. If there was no good Understanding at that time between the City of *Amsterdam* and the Prince, that was the Result of the Intrigues of *France*, which by a Diabolical Artifice sowed Divisions in the Cities and Members of the States. *The violent Suspicions* (he goes on) *he frequently gave of making himself the Master of those whose Minister he only was.* He never gave cause to such violent Suspicions, but it was the Instruments of the *French King* who raised them; for they were continually employed to diffuse Jealousies through the State against the Prince. There were none of his most innocent Actions that they did not misrepresent: In their Judgment, it was criminal for him to maintain his own Rights, against those who had a design to invade them. They had made so great a Progress before the Year 1672. by this Conduct, and by the Jealousies they had kindled in mens Minds against the House of *Orange*, that there was no defence left against their Practices. It is false that the Prince had given a suspicion of any Intention to make himself the Supreme Governor of the *United Provinces*. On the contrary, he generously rejected all the Occasions that were offered him to accept of that Dignity. The King of *France* made him an Offer of *Holland*, with full Sovereign Power, and he refused it, Anno 1672. During the Consternation that these Countries were in, by reason of the *French Army*, the City of *Amsterdam*, more than ordinary jealous of her Liberty, consented to bestow on the Prince both the Rights and Title of Earl of *Holland*: The Prince would by no means accept of it. The States of *Gelder* having signified their Intentions to make him Duke of that Province; he refused the Offer, and referred himself to the Opinion of the other Provinces. *The Low Countries have great reason sure to complain of the Prince's Government since the Year 1671.* He found a Commonwealth oppressed under the Yoke of a Foreign Power, having its Bowels torn to pieces, destitute of Arms, destitute of Forts, without Friends, and without Allies: and he accomplished his Design by the most wise Conduct imaginable, taking possession of their Hearts, beating back the common Enemy by his Courage; engaging all *Europe* in a joint Alliance (which crushed all the *French Designs*) engaging the *English Interest*, and causing the Treaty of Peace to be concluded at *Breda*. He defended his Nation against all the pernicious Intrigues of the *French Counsels*: He by his wise Conduct restored Trade to its former Splendor, and made it again to flourish. It is now in the highest Esteem that ever any Commonwealth was in. He was Umpire of the most important Peace that has been concluded these hundred Years past; which was made betwixt the two Crowns. These are the great Disorders that the Prince of *Orange* committed in the Republick; and the truth is, they are very great Disorders in respect of *France*, whose purpose is to reduce all her Neighbours into Confusion and Servitude for her own Ends.

Now

Now it is worth the knowing who this famous Author is. He is one whom France hath kept in *Holland* as a Spy and as an Incendiary : He has not been idle during his abode there ; he has not so much as omitted the most impertinent Occurrences that never passed the Frontiers of the State before, and which were only the talk of the Mobile. Such is the Application of the words of the Prophet *Esay*, to the Birth of the Prince of *Wales* : *Before she was in pain she brought forth ; before she travelled, she was delivered of a Man Child*. See what he imputes to the Prince as a Crime ; and calls it a profanation of holy Scripture, to uphold his Pretence against the Prince of *Wales*. He also justifies King *James* from the Accusation that is brought against him in the Prince's Declaration, for having had a Design to suppress the Religion, and overthrow the Laws of the Land. He thinks, in a moment, to possess the Minds of Men with a Prejudice against the Prince, as if his Expedition could not have been undertaken for the preservation of Religion, as not being of the *English* Persuasion, but a Presbyterian. He is obliged (saith he) according to the Calvinistical Doctrine to believe, that all Ministers have equal Authority, that Episcopacy is an unlucky Pillar of Papal and Antichristian Tyranny. The Presbyterians destroyed the *English Church*, banished the Prelates, and abolished the Liturgy during the Commonwealth ; and behold a Presbyterian and an Army of Calvinists, who pass into England to deliver the *English Church*, which they have always look'd upon as professing a false Religion. Upon this Subject the Author shews, what an able Man and great Divine he is ; he multiplies Words and idle Reflections.

False Accusations against the Pr. of O.

We answer him in a word, that the *English Church* never condemned the Presbyterians on this side of the Sea, nor ever accounted their Religion as false. She has only remonstrated the Extravagances of the *English Presbyterians*, and possibly in that she is not much in the wrong. The Presbyterians on this side the Sea, in like manner, never condemn Episcopacy as an Appurtenance of Antichristianism. The difference in Point of Government never hindered the *English Protestants*, and those in these Parts, from being ready to afford one another mutual assistance, as being of the same Religion. Queen *Elizabeth* helped the *Dutch* and *French Protestants*. King *James* did the same ; and which is more, he sent his Divines and Bishops to the Synod of *Dort*, which was otherwise all composed of Presbyterians ; that Action alone is an undoubted proof of the Communion that the Bishops and Presbyterians maintained among themselves. If the *English Bishops* have assisted the Presbyterians on this side the Sea as their Brethren, when they were like to be oppressed, why may not the Presbyterians here, with very good reason, go and assist the *English Church*, which they have always look'd upon to be a true Protestant Church ?

Presbyterians no Enemies to Episcopacy

Again, this Author endeavours to prove, first, that the late King of *England*, in his suspending the Penal Laws, had no other End but the Establishment of a perfect Tranquillity in his Kingdom, taking from his Subjects all occasion of persecuting one another upon the account of Religion. This is the old Song, but all those that speak so, are not in hopes to persuade others, nor are they themselves persuaded of the Truth of this Allegation. They know very well, and all the World is sensible of it, that King *James* did extremely hate the Presbyterians, Independents and Anabaptists, looking upon them as the Authors of his Father's Death, and as his own Enemies. It is very well known, that during all the time that he was Duke of *York*, he did cruelly persecute them to do the *English Church* a Pleasure, thinking to be so much a gainer thereby, as to do afterwards whatever he pleased. It was not then in favour of the Non-Conformists his sworn Enemies, that he intended to repeal the Penal Laws ; it is notoriously known, that it was never in his Thoughts to take them away but for the sake of the *Roman Catholics*, and that he included other Dissenters for no other end but to palliate his Designs. It is beyond all dispute, King *James* the Second of *England* was a great Friend of Persecution : He made his Inclinations manifest, whilst he was as yet Duke of *York* ; possibly it cannot be denied, but that that King had a very great Zeal for his own Religion, for this Author does him that great Honour as to avouch it. He had consequently a passionate desire to establish it in *England*. Can this be denied ? if he acknowledged it (for he must be destitute both of common Sense and Honour to deny it) he must also own, that all his Actions tended to that end ; if all his Actions tended to that end, with better reason so important a one did, such as was the suspension of the Penal Laws. Can he deny it, or can any Person do it for him ? It is therefore plain, that he had a design of establishing his own Religion. He had therefore a design to destroy all others, and consequently to ruin the *English Church*, the Presbyterians, and the

K. J's Pretensions to the Dispensing Power, examin'd.

Inde-

Independants; for it is known by the whole World, that the Popish Religion never looks upon her self to be established, till once she has made her way through the Ruins of all other Religions.

Secondly, This Author endeavours to prove, that the Prince only sought a Pre-
tence against his Father-in-Law: *Because* (saith he) *he reproaches him for having suspended the Penal Laws in favour of the Roman Catholicks, and has not considered him as having also suspended them in behalf of the Presbyterians and other Sectaries; as if it were possible for him to have transgressed the Limits of his Power, with respect to the one, and not to the other.* He calls this an unreasonable Distinction, &c. All this is nothing else but a piece of affected Malice and Ignorance. This mighty Lawyer ought to know, that the Penal Laws were only enacted against the Papists. The Oaths, if there were nothing else, do sufficiently attest this. They were made against those who believe the Pope to be the Head of the Church; that there is another Jurisdiction within the Realm than that of the King; that there is such a thing as Transubstantiation, and that the Invocation of Saints is no Idolatry. There are no Protestants who believe these things: It is not against them that the Penal Laws and the Oaths were made; but if the Penal Laws, some few Years ago, were extended to the Presbyterians, that was done by evil Designs of *James Duke of York*, who did sow Divisions betwixt the two Parties; and therefore the Prince ought to have taken it in good part that he did relax them as to the Presbyterians, because that is consonant to the purport and true meaning of the Penal Laws; and he ought to have taken it in ill part, that the same Favour was allowed to the *Roman Catholicks*, because that is contrary to the express Decisions of the Law. All the Penal Laws were made to serve as a Bulwark, not only for the *English Church*, but for all Protestants in general; and therefore all Protestants of all sides set themselves against the Declaration of Liberty of Conscience in general, because they saw very well whither that did tend. Besides, the Addresses, by which this Author would prove that the Presbyterians look'd upon the Suspension of the Penal Laws as an Obligation on them from the King, were nothing else but cunning Artifices, and Suppositions for the most part, or made by three or four Quakers, Independants or Papists, who presented those Addresses without the Consent of their respective Bodies, in whose Name they yet pretended to speak. This we know by good Hands, and we have derived the Account we have had hereof from the very Fountain; and it appeared sufficiently by the unanimous Concurrence of those Communities (on whom the said Addresses were fathered) with the Prince of *Orange*. The Author concludes this Reflection with two Considerations. The first is a mighty Elogy on the *Roman Religion*, which he commends by reason of its Antiquity and Extent, by its Sanctity, and the Saints it has given to *England*. The other Consideration is of the Power that the Church of *England* allows the King in Spiritual Causes; whence he concludes, that the Church of *England* would be very unreasonable, if it were of the Opinion, that that Power could be restrained without Cause, *in respect of that which is, of all things, most grateful to the World, which is, to allow the free Exercise of their Religion to those of his Subjects, who, with himself, are of the most antient Religion of all that maintain the Adoration of Jesus Christ.* That is to say, in a word, that if the King has a Power to dispense with the Penal Laws with respect to new Sects, he ought, in all reason, to have the same Power with respect to the antient Religion that is professed by himself. This Consequence is denied: If the King of *England* has Power in Spiritual Causes, it is not an Arbitrary Power, 'tis bounded by the Laws; but the Laws do not forbid a Toleration of the Presbyterians, but they forbid a Toleration of the Popish Religion, because that so antient a Religion, and which is so far spread through the World, and is so Holy, is a common Enemy of all other Religions, whether true or false. Those other Religions which give, may also receive Toleration; but who is obliged to grant a Toleration to the Popish Religion which tolerates none, which destines all those to the Fire and Sword who do not submit themselves to it?

K. J. his
designs up-
on Religion.

The Author puts an end to this part of his Defence of King *James*, touching his Religion, by taking a review of the Church of *England*; he turns it on every side, and finds it safe and sound, without so much as spot or wrinkle. *She was the same under the Catholick King that she was under the Protestant Kings.* She had her Bishops, her Cathedral Churches, her Parochial Churches, her Ecclesiastical Revenues. The King built very near twenty Chappels at his own charge. And this is that for which he makes all this Cry. Thus our Gentleman concludes, *that it is an imposition upon*

upon the World, and a manifest token of want of sense, to call that a Subversion of the Religion that was established by Law. Certainly the People of England were very far in the wrong, that they had not patience till King James brought their Religion to the same Issue, as Lewis did the Reformed in France. It is true, that King James established the Popish Service in all the Cities and Boroughs within the Realm, where there were Papists. It is true, that the Jesuits were so bold as to open Schools up and down. It is true, that by this time, London was provided with Monks of all Orders. It is true, that the Jesuits remained in the Court, and that Father Peters was the Head of the English Church, by virtue of the intire Influence that he had on the King, and the Precedency that he had at the Council Board. It is true, that the principal Offices of State were taken out of the Hands of Protestants, and given either to Papists, or to those who had no Religion at all. It is true, that the Earls of Clarendon and Rochester, the King's Brothers-in-Law, lost their Places of Trust for refusing to change their Religion. It is true, that the most part of the Judges of the King's Bench were Papists. It is true, that the Justices of the Peace in the Country, were not a few of them Roman Catholicks. It is true, that the Papists were possessed of Magdalen College in Oxford. It is true, that the Archbishoprick of York being vacant, was designed for a Jesuit, or some Priest. It is true, that the Offices in the Militia, the Government of Counties, and the Lieutenantship of Ireland, the Town and Fort of Portsmouth, and all the places of strength on the Sea-coasts were in the hands of Papists. It is true, that when any one presumed to speak publicly of Religion, he was put from his Pulpit, if not from his Benefice. It is true, that when the Bishops refused to read the King's Declaration of Liberty of Conscience to Roman Catholicks, under the Name of Dissenters, they were sent to the Tower. 'But to what purpose is all this? they were alive 'still, they preached, they had Pulpits and Churches, whereas in France there was no 'such thing to be seen: Ay, but there was always reason to believe that King James, who was so true a Friend to Lewis XIV. and zealously bent on the same courses, in agreement with him, would in time push on things to such an issue (to take effect in his own or his Successor's days, whom he was setting up) as has already fallen out in France. They were afraid of it, I say; and they had reason, for the Popish Religion is a most insatiable Monster, an implacable Enemy: If it be allowed but room for one foot, it will quickly usurp an intire Possession of all. It makes profession of admitting no Partnership, and of suffering no Rivals. The English had forgot this Truth, I know not how, and suffered a Popish Prince to ascend the Throne. The Cause of James II. his Misfortunes is to be looked for in the Conduct of the French King. It is he, and he only that was the Cause thereof. The English must of necessity have been very fast asleep, not to awaken at the Cries of the infinite Numbers of miserable Creatures, who went to carry their Afflictions and their Complaints to the Ears of the English Nation, and who without speaking did pathetically express the meaning and weight of this important Advice, *Learn to have a Care of Tyrants and Kings, that are possessed by Jesuits.*

The Defence of King James is destin'd against King William Prince of Orange. The Religion established by Law was intire, and therefore his present Majesty (as the Man reasons) could have no just cause for passing into England. Besides, the Author endeavours to strengthen his Argument, by the measures his Majesty took in Holland (a Country where he had signalized himself more frequently than in England) where he made it be blown about (as this man says) that his Father-in-Law was about to suspend the Penal Laws. There are certain Penal Laws in Holland against the Roman Catholicks; but it is as certain (saith he) that the wisest Magistrates did judg, that it was the Interest of the Republick to suspend their execution, especially in the Province of Holland, which is the most considerable amongst them. God be praised for it. You may now at last take notice of a publick Confession that is express and in print, that the Roman Catholicks are not persecuted in Holland. Thus both Mr. Arnould and all the Apologists for the French Persecution, who were so bold as to complain of the Persecutions that their Church suffered in the Low Countries, are declared to be Slanderers. Note this well; for these Gentlemen will say the contrary the very next day, because they always speak according to their Interest: but here it is their Interest to confess the truth, that they may be in a capacity to conclude, that the City of Amsterdam, that of Rotterdam, and that of Harlem had Power to suspend the Penal Laws; that a King, who is a Sovereign Prince, can do as much as a particular City; that if the Dutch, without betraying their Religion, might do this, we have no reason to complain of a Catholick, who was willing to

Penal
Laws a-
gainst Pa-
pists how in
Holland.

shew the same gentleness to those of his own Religion, as a Protestant Commonwealth does. It is necessary, that King *William* himself be concerned in the Proof. He had a very great number of Catholicks in his Guards, and likewise amongst his domestick Servants. *It is not then an Argument of Religion* (saith he) *that he doth charge it as a Crime upon his Father-in-Law, that being himself a Catholick, he did suffer the Catholick Religion to be exercised within his Dominions.* Our Author is not ill to please, his Premises are false throughout, and his Conclusion is very bad. He supposes that the Prince of *Orange* would answer thus, that his Father-in-Law permitted the Exercise of the Roman Religion in *England* as it is in *Holland*, this is false; *Min. Heer Fagel's* Letter was penned to shew the contrary to King *James*. The Prince does agree, that such Penal Laws should be repealed which might endanger the Lives of the Priests, and might ensnare the Conscience. He does allow, that the Papists be tolerated in *England*, as they are in *Holland*. This Author again supposes falsely, that King *James* had granted nothing to the *English* Papists, but what the *Dutch* had granted to the Romish Religion in their Countries. It is Impudence without Example to affirm this. It is notoriously known that the Toleration of Papists in *Holland* is not established by any Law, nor by any Decree suspending the Laws. It is well known, that the Papists have not entred into any Office of Justice and of the Government of the State; they are only admitted into Military Employments: but King *James* was for receiving them into all the Offices of the Kingdom, and not only for suspending the Execution of the Penal Laws by a tacit Toleration of Religion, as it is in *Holland*, but by an expresse Cessation of the Laws themselves. In the third place he does falsely suppose, that the King of *England* has the same Power with respect to Religion, that the States of *Holland* have in their Country. This is not so; the States of *Holland* are Sovereign and Absolute in their Provinces, without limitation; for it is they who make Laws, but the King of *England* makes no Laws but with the joint Assent and Authority of Parliament, and can change nothing in such as concern Religion, any more than he can do in other Laws, without the Parliament. Lastly, he is infinitely mistaken, when he compares the Quality of the Toleration of the Popish Religion, that is admitted in *Holland*, to that which he would have established in *England*; because in *Holland* the Sovereign Authority is Protestant, and in *England* the Sovereign Authority was Popish. There is a very great difference betwixt having Popish Subjects and Servants, and having Popish Masters. The States of *Holland* are very well content to have Popish Subjects, and the Prince will admit Popish Servants, but they would not have Masters of that Religion. This was designed to be done in *England*; their great Master was a Papist, and that Master endeavoured that all others should become so: And so it does not follow, from the Prince's Goodness, in admitting of Papists amongst his Servants, that he ought to suffer that his Father-in-Law should commit the Offices and Places of Trust within the Kingdom into the hands of Papists.

*P. of O's
Declaration vindicated.*

The words also of *Popery* and *Papists*, used in his present Majesty's Declaration, are not pleasing to our Opponent. That Man ought to have known, that those Words are used in the *English* Laws and the Publick Records of the Kingdom, when they speak of the Roman Religion and of those who profess it; as in *France* we are called the pretended Reformed, in the Edicts and Publick Ordinances; this Name is no more honourable for us than that of Papists for them who call themselves Catholicks. But he likewise takes exception at this Expression, *to introduce Popery into three Kingdoms.* On which he spends a great Article, to prove that nothing can be worse express'd; that the business is not about introducing the Catholick Religion into three Kingdoms, where it always was, and where it is still. And here he falls on a Controversy, to prove that the Roman Religion is the Antient Religion, that ours is an Innovation, that is, without Mission and without Miracles. Must he not be very destitute of Judgment, to shew himself so mightily pedantick, on a Subject that is purely politick? Is it not hereby very manifest, that he loves to leave the Point, and take occasion of one Word, upon which he may exercise his Talent, by making thereupon a common Place? To answer in good earnest Reflections that are so impertinent, would argue one to be Master of as little sense as he is who makes them.

The Grievances of the Prince and of the *English*, which they ow'd to *James II.* had not only a respect to the violation of the Laws of the Land, but to the Subversion of Religion. Yet our Author has so much insisted on the point, and spent so much breath on the head of Religion, in such a declamatory method, and with such vigorous efforts, that he has left very little more to say in the justification of his
Hero,

Hero, as to Affairs of State ; and therefore he has but one word concerning it, and only touches upon one of the Articles that the Prince has express'd in his Declaration, and that is, that the Liberty that King *James* gave of placing Popish Judges on the Bench, reduced the Estates and Fortunes of the Subjects to an uncertainty that was extremely irksom, because the Sentences pronounc'd by the Judges, who were not legal, are reputed to be null and void, tho they were never so just. Thus those who lose the Suit, seeing themselves lie under the Sentence of incompetent Judges, will be sure not to let slip the first opportunity that shall present it self for their relief against that Judgment, which would bring the Estates and Fortunes of private Persons into an eternal uncertainty. In opposition to this, our Author pretends to plead, endeavouring to make it appear, that tho the King should make a Judge illegally, the Judge should nevertheless have a legal Authority to give judgment, and that the Sentence that is pronounc'd by him is without all question valid and binding ; for confirmation of which, he cites the Law of *Barbarius Philippus*, by which it appears, Law of Barbarius Philippus consider'd. that a Slave having obtain'd the Pretorship by surprize, it was judg'd that his Determinations were not to be question'd. It belongs to the *English* properly to make answer to this. The Law of *Barbarius Philippus* is a Rule of Prudence, which neither amounts to a natural Right nor a necessary Law. Naturally, Acts done by a Subject, who is incapable of bearing certain Characters, are invalid. All the Ordinances given by a Tyrant and Usurper are null and void, as soon as ever the Tyrant is put from the Helm. If a *Turk* should usurp the Papal Chair or turn Priest, all the Oaths that should be administred by him would be manifestly void. In like manner, all the Sentences given by one who is incapable of being a Judge, and whom the Law bars from sitting on the Bench, are naturally of no force. If the Sovereign, in consideration of the consequence, and to avoid trouble, is pleas'd to continue them, it is in his power so to do, and they shall bind ; but it is absolutely necessary, that the pleasure of the Sovereign intervene in this case, for giving force to such Judgments. The Law *Barbarius* makes this easily appear : If the *English* had any Law, that could give a validity to Judgments and Decrees of a Judge, tho he were made so contrary to the Laws ; it is true, that the Sentences given by Popish Judges might remain in force : but it is so far from being so, that on the contrary it is manifestly true, the *English* have Laws, according to which every Sentence pass'd by Judges appointed against Law ought to be revis'd. We are not to spend all our thoughts on these smaller matters, and neglect so many Grievances and Complaints of the Nations against the Government of *James II.* Is it nothing, for example, that he usurp'd a power of dispensing with the Laws ? Is it nothing, that he made himself an Absolute Sovereign, and exercis'd Arbitrary Power ? Of what use are the Laws, if it be in the Prince's power to suspend them, by hindring their Execution whenever he pleases, and acting directly contrary to what the Laws ordain ? If it were thus, I would rather now chuse to live at *Paris* or *Constantinople*, than at *London*, and be subject to *Lewis XIV.* or *Mahomet*, than to the Government of a King of *England*. The Authority of the Judges of the *Kings Bench*, who were generally of opinion that the Dispensing Power was annex'd to the Crown, is not sufficient. For it is well known who those Judges were, that most of them were Papists, and by some means or other those that were not were brought over to join with the rest. Can it be thought, that a few ill men, who betray'd their Country and sold their Liberties, should be the Sovereign Disposers of the Interest of such a vast number of People ? Is it nothing, that the King of *England*, prevailing over the weakness of the Kingdom of *Scotland*, had a considerable Success, in the design of making himself Absolute Sovereign, having in his Declarations us'd a Stile that is more despotick than that of the Grand Signior, affecting to insert therein, almost in every Period, the Terms, *We Will, We Command, of Full Power, of Absolute Power* ? Have we not seen this with our Eyes ? Is it nothing, that all the Charters and Privileges were taken from the *English* Cities and Corporations, and particularly from the City of *London*, by horrid Violences and unjust Procedures, to the end the King might be in a capacity to fill up the Vacancies of Offices and Places of Trust with Court-Slaves, and Enemies of the Protestant Religion ? Is it nothing that the Bishops, who are Peers of the Realm, were imprison'd against all sort of Law, only because they were so bold as to make a most humble Address to the King, by way of Remonstrance, against his Ordinance ? Where are there any Monarchical States in which it is not permitted to make such Remonstrances to their Sovereign ? Is it nothing to threaten all the Judges of the Kingdom with the loss of their Places, and actually to deprive them thereof, upon their not consenting to re-

peal a fundamental Law of the Land? Is it nothing to deprive the Lords and Prime Officers of State of their respective Places of Trust, because they refus'd to give their consent to the thing? Is this any thing else but to shed the Blood of the whole Kingdom by Apostate Judges and Slaves to the Court, as the Prince complains in his Declaration? Is it nothing to have obstructed the free Election of Members to serve in Parliament, by depriving them of all manner of Liberty, and making them to depend on the Court, by so many Cabals, so many Violences and Injustices? All these Articles deserve to be consider'd somewhat more than that of the Invalidity of Judgments given by Popish Judges. It must needs be, that in all these Points this great Advocate, who is so profuse of Words and Reflections, found nothing to say in favour of his Hero, and against the Prince. For he that speaks so much elsewhere, would not otherwise have been silent in this matter. After this, take his word for it, and believe him when he tells you, that *if any thing deserves reprehension in the King's Conduct, it was so inconsiderable, that Posterity will be astonish'd; that there are Christians found in these Ages, who are so barbarous, as upon that occasion to give so ill Treatment to so good a King, whom all Histories will own to have possess'd very Royal Qualities.* And in the Sequel he attributes a *Great Heart* and a *Great Soul* to him. This Author differs very much from himself, or from one of his Friends, who writ the Letter of *M. to M. upon the Affairs of the Times*; for instead of ascribing to him Royal Qualities therein, whilst they manifest their discontent and murmuring, they treat him as a Man who in his Conduct was destitute both of Sense and Prudence, and as one who has done just so much as was necessary to destroy himself. That great Prince seem'd to have neither Heart nor Head in all that Affair. We know well enough what is believ'd of him, and what has been said of him in *Paris*, since they have enjoy'd his Presence. It is certain, that so many as have known him, whether Friends or Enemies, do all agree, that instead of Royal Qualities, he was endow'd with an extreme Fierceness, with a very little Spirit, and a Heart in a degree below mediocrity. But if he were the most considerable Person in the world, it is very certain that he abus'd his Power, and this is enough to justify the *English* Nation. If he had had no other Quality, but that of a declared Papist, it were enough to make him incapable to reign in *England*. For it is unspeakable folly to alledg, that a Popish Prince can be King of *England*, a Kingdom that is altogether Protestant, and in which according to the most impartial Calculation, those Papists who live there are nothing in comparison. The *English* Nation have abdicated this Error as well as the powerful Cause of it. It was not possible for her to be kept in it for any long time. There were in *France* a Million of Protestants, and that Party was in a condition of making head against the other, when it was declared to *Henry IV.* that the King of *France* must of necessity be a Catholick.

A Free Par-
liament
desir'd.

From the same infected Source do spring two great Articles, to prove 'that the
'Free Parliament, about which the Prince made so great a noise in his Declaration,
'and which was the great Hinge of the Motions of the Kingdom, is as great a Chi-
'mera as a Mountain without a Valley, considering the Condition into which the
'Prince had reduc'd the Nation by his Invasion. All this effusion of Words may be
reduc'd to two Arguments: The first, that to make a Parliament free, the King must
of necessity have at least as great Liberty as the Members of Parliament, that he
may be in a capacity to propose to and demand of them whatever he pleases. This
Article may be very well question'd; for the Definition of a Parliament does not
consist in a liberty that the King has to demand and propose. He has always e-
nough, and oftentimes he loses a great deal. The nature of a Free Parliament lies
in this, that the Members thereof have been freely elected by the Counties, Cities,
and Boroughs, and where the said Members may speak their Opinions, even in op-
position to the King's pleasure, without danger. It was a long time since there
were such Parliaments in *England*. For it is known in what manner those were
treated, who durst oppose the King's Will. But let us suppose what he says, that
the nature of a Free Parliament does require, that the King have a perfect Liberty,
as aforesaid. Who hindred this Liberty? If *James II.* upon the Prince's arrival
in *Exeter*, had of his own accord given his consent to the calling of a free Parliament,
there might have been sufficient assurance given, as of a thing most certain, that he
might have had all manner of Freedom to propose, to speak, and to demand of
the Parliament whatever he pleas'd; Who would have bar'd him from this? He
had his Guards, he had his Army, consisting of about 40000 Men, against ten or
twelve thousand, whom the Prince had taken with him. It is certain, that the
Army

Army would have prov'd faithful to him, and not one Person would have join'd with the Prince against him, if at that instant the King had call'd a Free Parliament: But God, who intended to ruin him, did leave him to be blinded and made obstinate by Popish Counsels, so as not to consent to the sitting of a Free Parliament. The Papists had reason to give him such Counsel, but the King was very much in the wrong to take it: The Papists had reason, for a Free Parliament had ruin'd them, as it did the King in the issue, and reduc'd them to a worse Condition than they were then in: but the King had no reason to follow that Counsel; for it is not to be doubted, but that it was better for him to reign under the restraint of the Laws, which hindred the Establishment of his Religion, than not to reign at all. That which we alledg, viz. That the King had nothing to fear, as to his Person and Dignity, if he had call'd a free Parliament at the first, is not a bare conjecture. There is no *Englishman* but says it, and is ready to depose it upon Oath. And, in my opinion, every one of them ought to know what he thinks; but that which perverted the Army and provok'd the People, is, that fierceness with which the King reject-ed the Request which was presented to him at *London* at that time by fifteen or twenty Lords, as well Spiritual as Temporal, and which was afterwards back'd with a more considerable number. Then it was seen, that the Religion, Laws and Liberty of the Kingdom lay at stake, and that if the King should get the better of the Prince, they were to expect the last extremity of Rigour. And this made the face of things change in a moment, and did the Prince's business without effusion of Blood. It is true, that at last the King (at a pinch) consented to the calling of a Parliament, but it was then too late; and they knew very well, that that was only to gain time: yet tho as late as it was, it is yet true, That if the King had staid, his Enemies could never have done any thing against him; the Parliament had taken his part. This is so clear by the manner of the carriage of many of the Members of the Convention, that he must be blind who cannot see it, or be very hard of belief not to acknowledg it. *As for the King's Friends, they would have had no liberty of Speech* (saith my Author) How dare he say so, seeing that in the Convention, the King having left the Kingdom, and the Prince of *Orange* being in the possession of his Army, and the House of Commons declaring against *James II.* yet even then his Friends durst speak for him? It was propos'd in a full Assembly to call him back. Many Lords Spiritual and Temporal protested against the Vacancy of the Throne, and with so little danger and disgrace, that some of them were afterwards made Members of the Privy-Council. What could not the Friends of *James II.* have said, if himself had been present? It is past all doubt, that they had carried it for him, or kept the Affairs of State in a most equal Ballance. If the Prince had had any design to do violence to the Members of Parliament, would not the whole Nation and all the Forces thereunto belonging have join'd together to oppose him, as a treacherous Person, who came to destroy their Liberty, after having so solemnly declar'd he would maintain it? Could the Prince with his 10 or 12000 Foreigners have made one day's resistance? It is therefore certain, that neither the King nor his Friends had any reason to be afraid in that case.

The other Argument, by which this Man endeavours to prove that the pretence of a free Parliament is really a Chimera, is, because the Parliament could not make Laws without the King's consent. And if it be granted, that this pretended free Parliament had met, the King would have opposed all their Resolutions; he would have refused to pass the Bills. And the Parliament could never have done any thing, at least could not but by force. Upon which account, it would not have been a free Parliament, seeing the King could not have his Liberty. It may also be (saith our pious Author) *that the Hand of God, which is not shortened, was so gracious to that generous Prince, as to make him hearken to their Threats, with the same Firmness of Resolution with which St. Lewis heard the Saracens, whose Prisoner he was, when a hundred drawn Swords ready to dispatch him, could not shake him from his stedfastness, and oblige him to take an Oath, the thoughts of which were more terrible to him.* What is to be done on such an occasion? Behold, this pretended free Parliament is arrested all on a sudden; and all the fair Fruits that were expected from it become abortive. The *English* ought to answer this. They know their own Laws, and we do not; but according to the Light of good Sense and the Laws of Nature, we may make them answer, by two things that are very weighty. The first is, that we ought to distinguish betwixt those Laws that are already made, and those Laws that are only a making: That the Consent of the King of *England* is not necessary for the Preservation of those Laws that are made. But there were Laws requiring the Exclusion

Free Parliament no Chimera.

of

of all Papists from Offices and Places of Trust, as well Military as Judiciary and Civil. There were Laws that prohibited, upon pain of Death, the Priests, and especially the Monks, coming into the Kingdom. There were Laws standing, that required the demolishing of the Romish Chappels, and hindring all Publick Exercise of the Popish Religion. There were Laws that declared every Person of the Realm guilty of High Treason who should keep correspondence with the Court of Rome, and who should hide Priests and Monks. There were Laws enough for the Security of the Protestant Religion. The Parliament had nothing to do, but to put those Laws into strict Execution. The King's Consent was not necessary for the enacting of new Laws for that purpose. But seeing he has the executive Power of the Laws in his hands, what is to be done, if the King will not put those Laws in execution? Then and in that Case, it is evident that the Parliament might lawfully appoint some Persons who should execute those Laws; otherwise, for what end are Laws made, if it be always in the Power of one individual Person to hinder their execution? It must be supposed, that those who made the Laws, were no Fools; but certainly they had not been wise, if they had reserved no Power to themselves for the Execution of the Laws, whensoever the King should refuse so to do. It is not then necessary, that there should be new Laws to bear down Popery, which shewed her self bare-faced. Neither were there any new Laws necessary to oppose the King, and to declare him incapable of the Government. For all the Laws, which before that time had been made against Popery, make it manifest, with great Force and Necessity, that a King of *England* must be a Protestant; that without doing any Violence to the Law, they might declare to *James II.* that they could no otherwise consider him but as a private Person.

But again, there is no Law expressed in so general and so precise terms, but admits of an exception of Cases of Necessity: And according to this Rule, we are to understand the Laws of *England*, That the Parliament cannot make a Law without the King. Let us suppose, that in a Kingdom, such as *England* is, where the Estates have reserved to themselves one part of the Sovereign Power, a King goes about to alienate all or any part of the Realm, to bring in a foreign Power, to abrogate the Antient, to revoke all the Privileges of the People, to harass his Subjects with an Army, to cause to murder all those who comply not with his Pleasure, or all those whom he pleases so to treat: Will any one say, that the Estates, or the Parliament, who are the Trustees, Guarantees and Protectors of the Liberties of the People, have not a Power according to Law, to issue forth such Orders, and to take such Measures as may hinder the Violences committed by that Prince? and that for this Reason: The Parliament can do nothing without the King's consent, and therefore cannot oppose the Violences done by him, for the King will never consent to it. I maintain, that he that would argue thus, has utterly lost his Wits. In vain have Parliaments reserved to themselves the Legislative Power, if they had no Authority to exercise it. In vain have they preserved their Privileges, if they had no Power for that purpose. The Supreme Law does always interpret all other Laws, and make exceptions therein; and that Law is, *The Safety and Preservation of the People*; according to which Law, we ought to explain or limit that Law which says, The Parliament can do nothing without the King's consent. When the King and the People are opposite, the Parliament is Judge; but a Judge does not stand in need of the Consent of either of the Parties to give force to the Sentence that is pronounced. When the Parliament and the King are agreed for the Preservation of Religion and of the Society, in that Case alone it is, that one can do nothing without the other. To make this Truth manifest, we need only invert the Position, and say, the King can do nothing without the Parliament; does it therefore follow, that if a Parliament is so head-strong as to render all the Laws of no effect, and to ruin the Nation, a King of *England* may not lawfully oppose them, and bring the Parliament within its due limits? He may do it without all doubt; in like manner, a Parliament may lawfully provide for the Security of the Nation, contrary to the King's Pleasure.

No sanguinary Orders in the P. of O's Declaration.

My Author goes back to the Prince's Declaration, alledging it to be fill'd with sanguinary Orders. And what are those sanguinary Orders? They are such Clauses of the Prince's Declaration, which appear'd to him to carry the greatest force in them. In one place he calls *those who have betray'd their Religion, and subverted the Laws of their Country, execrable Offenders, who have justly deserv'd Death.* In another place he declares, *That all Papists who shall be found with Arms in their Hands, or conceal'd in their Houses, about their Persons, or otherwise; or who shall be in any Civil*

or Military Employment under any pretence whatsoever, shall receive no Quarter from his Army, but be treated as Highway-Men and Banditti by his Soldiers. In a third place the Prince does say, That they who shall take Arms under any Popish Officer, and march under his Command, shall be consider'd as Complices in their Crimes, and Enemies to the Laws, and to their Country. And lastly, William of Nassau saith elsewhere, That those Magistrates, and other Persons who shall refuse to assist him, and in Obedience to the Laws to perform strictly whatever he does require of them, &c. shall be look'd upon as the greatest Offenders, and the most infamous of all Men, as Traytors to their Religion, to their Laws and to their Country, and that he will not fail to treat them accordingly.

The Truth is, we cannot tell, if this Man is yet in his right Wits; or rather, if he is not one of those Bedlams who are tied, to prevent the Effects of their Rage. Miserable Soul! Are these the Marks, by which the Cruelty or Clemency of Princes is to be judg'd? Are they not rather innocent Stratagems, by which they strike Terror, that no ill may ensue? Is not preventing of Resistance a proper means to hinder the Effusion of Blood? Is there any Necessity, that all such Threatnings should be accomplish'd? How many Commanders and Generals have threaten'd the Cities which they besieg'd, that they would abandon them to the Fury of the Soldiers, if they would not surrender; to which nevertheless they afterwards propos'd favourable Conditions for a Treaty? Let us trace the Footsteps of this Prince, are they mark'd with Blood? What Persons has he put to death? Is there any Man who has lost so much as a Nail of his Finger? We know, that the Papists that are in London, and particularly the French, talk with an unparallel'd Insolence. The Parliament knows it, the King is inform'd of it, and hinders the Severities of Justice from taking hold of the Offenders. The Ambassadors of the Emperor and of the King of Spain see it; they acknowledg it, they declare to his Majesty the grateful Sense they have of his Clemency, and they inform their Masters of it. But (it may be said) the Prince ought not to have denounc'd those terrible Menaces: If it were so that he ought not to have utter'd those Threats, it would not have been the effect of his Cruelty. It is in Actions, and not in Words, that Men look for Blood and Cruelty. Besides that, the Prince had good reason to speak as he did, if he had just cause to do what he did: If he was in the wrong upon the matter, he was to be blam'd in every Circumstance; but if he was justifiable in the main, he was justifiable in the whole Affair; for these are the ordinary Measures taken by Conquerors and Generals in just Wars. They utter Threats, they impress Fear, and strike with Terror; they likewise chastise those who yield not themselves upon such Manifesto's. Those Traytors, who in favour to the King had betray'd their Country, Religion and Laws, deserv'd to be call'd *Execrable* by the Prince, and deserv'd all the Evils with which he threaten'd them, yet without any design of their Accomplishment, as it appear'd by the Event. He commanded the Papists, upon pain of Death, to lay down their Arms. That had been good, if after he had declar'd War against Popery, upon his entring the Kingdom, he had suffer'd the Papists to meet together, and form a Body against him. He declares, that it was neither strictly the Persons of Papists, nay, nor their Religion that he had in his view, but that he was resolv'd to oppose their Attempts, by which they endeavour'd to destroy the Religion establish'd by Law. Must he not then have been permitted to deprive them of their Arms at least, seeing he left them their Life, Property and Liberty of Conscience? The Man complains loudly, that the Prince, in his Declaration, sounds his Order for the Papists laying down their Arms, upon their Meeting about London and Westminster, with a barbarous Design of making some attempt upon the said Cities, either by Fire, or a Massacre, or by both together. He must certainly be very much in the wrong, who suspects Papists and Popery of such Attempts; they are very little acquainted with them. St. Bartholomew's Massacre, and many others committed in France: The Murders a hundred times attempted upon the Person of Q. Elizabeth, and committed upon those of Henry the Third and Henry the Fourth: The Assassination of William Prince of Orange: The Gunpowder Plot for blowing up the two Houses of Parliament, in the beginning of the Reign of James the First: The Burning of London: The Assassination of Justice Godfrey: The Death of the Earl of Essex by a Razor; and that of King Charles the Second by Poison, with a hundred other Enterprizes of this nature, make it appear, that we commit an outrageous violence against Popery, if we believe, that she is capable of inspiring the blackest Designs.

Now, by this time, the Man who has oppos'd the current of this present Narrative, thus far begins to vomit torrents of Choler, and accumulates Injuries upon Outrages.

The

Government of
France
cruel.

The Wretch is a monstrous exception out of every Rule, and particularly out of this one, That Men without Judgment are ordinarily endow'd with a good Memory; he talks like a Mad-man, without Judgment, and also without Memory. He has forgot where, and the Person for whom he speaks: He speaks in *France*, and he speaks for *James* the Second. It is a mark of great Judgment to look for Cruelty out of *France*, and to accuse a foreign Prince thereof, whilst he lives under the most cruel Government that has been in *Europe* for these many Ages. A Government under which a thousand Cruelties have been committed upon the Protestants, to make them abjure their Religion: They abandon'd them, their Honor and their Life, to the Insolence of the Soldiers: They tormented them by night and day, they burnt, they rack'd, they tortur'd them: The Resolutions of many were shaken by the cruel Torments that were us'd: They massacred, and burnt and tore many in pieces alive: They left infinite numbers of People to perish in frightful Prisons, and in unspeakable Miseries: They snatch'd the Children from their Mothers, the Husbands from their Wives, the Wives from their Husbands, Friends from Friends, to send them away to perish in the *American* Islands, in a direful Exile, and horrible Miseries. When King *William* shall have done so much against the *English* Catholics, we will agree that they abdicate the Notion of his Royal Clemency. A Government moreover, of whose Cruelty foreign Nations have been sensible, which has not spar'd either the Honor, the Possessions or the Lives of their Allies and Neighbours; which has reduc'd into Ashes the most beautiful Cities of *Flanders* and *Italy*, and which carries Horror and Desolation whithersoever she carries her Arms. These are the Men who accuse our Princes of Severity: Get you gone then, you infamous Man! Go, and read Lectures of Clemency to your own Masters, before you charge ours with Cruelty. Take notice also for whom it is that you speak: You speak for a Prince who alone has spilt more Blood, by the hand of the Executioner, than twenty of his Ancestors have done together. After the defeat of the Duke of *Monmouth*, he sent a Monster of Injustice and Cruelty into the West of *England*; he caus'd to hang and quarter more than a thousand Persons in those Counties: An Example of horrible Cruelty, and which possibly cannot be parallel'd in History. In the most Criminal Rebellions, the Heads are punish'd, and the Multitude is pardon'd; but he was for cutting off both Leaders and People, and burying them under the same ruins. You speak for a Prince who is suspected to have his hands stain'd with his Brother's Blood, and to have dipt them in that of the Earl of *Essex*. You ought to have let these Ideas of Horror sleep, and engage those who wish him well, not to awaken them, and expose them to the view of *England*.

This infamous Libeller acts the Prophet too, and has found by an Astrological Scheme of his own, that the Prosperity of his Majesty King *William* will not last long, but the Event, without doubt, will give this Prophet the Lie: God, by the continuance of his Favours and Blessings, will justify the Conduct of his Anointed, and of his Servant, and make him victorious, in spite of all the Efforts of Calumny, and the Machinations of his Enemies.

A

A Defence of the Proceedings

OF THE

Late Parliament of *ENGLAND*,

Anno 1689.

1. **T**HE Proceedings of the late Parliament were so fair, so prudent, so necessary, and so advantageous to the Nation, to the Protestant Interest in general, and in particular to the Church of *England*, that all true *Englishmen* must needs acknowledg they owe to the then Representatives of the Nation, their Privileges, their Liberties, their Lives, their Religion, their present and future security from Popery, Slavery, and Arbitrary Power, had they done nothing else but enacted the Rights and Liberties of the Subject, and settled the Succession of the Crown. Liberties secur'd.

So that it is now, and perhaps but now, that we may call our selves the Free-born Subjects of *England*, as being fully secur'd for ever by this Act from the heavy and insupportable Yoke of Arbitrary Power, the necessary consequence of a Power of dispensing or suspending of Laws without consent of Parliament.

2. Their settling the Crown upon the Head of a Protestant Prince, who is the very Centre, the chief Prop and Pillar of the Protestant Religion, secures all Protestants not only at home, but likewise in all other parts of *Europe*; insomuch that it is upon Him only we ground all our hopes of seeing, e'er long, *Lewis XIV.* call'd to a just account for all his unjust, arbitrary, and tyrannical Proceedings against his own Subjects, as likewise against his injur'd and weaker Neighbours. Crown set tled in a Protestant Line.

3. Their not acting in the least, after the example of their Neighbours, against Prelacy, but rather favouring it by such Acts as fit only Episcopal Men for publick Employments, gives all reasonable satisfaction to the Church of *England*, without any just Offence given to the Dissenters; who, under the present Government enjoy, to their own Hearts desire, their long wish'd for Liberty, without being liable to the lash of the Law for serving God after their own way. Notwithstanding all this, so hard, yea so impossible a thing it is to content all Parties; not a few vent their Malice in every Corner, yea and in Print too, against the King and Parliament, tho all their Proceedings hitherto tend so directly to the general good of the Nation, that we must either want common Understanding not to see it, or prove most ungrateful to our Representatives not to acknowledg such an evident truth as this is, with our most thankful Returns. To proceed with some method in this design'd Vindication of the late Parliament, I shall first take a summary view of the late condition of our Affairs; and secondly give a full Answer to whatever is maliciously suggested to the unthinking Multitude, yea and in printed Pamphlets likewise, to the seducing of the simple, and to the great encouragement of the profess'd Enemies and Disturbers of the present Government. Episcopacy secur'd.

4. If we consider in what condition we were in the two last years of *K. James's* State of Reign, we may remember we were given up for lost by all our Friends in *Europe*, and did think so to our selves, it being then impossible for us to imagine from whence our relief should come. A Power of dispensing with and suspending of Laws, and the execution of Laws, was already so fully establish'd, that the very humble petitioning to be excus'd from concurring to the said assum'd Power, was Crime enough for the Commitment and Prosecution of divers worthy Prelates: The Court of Commissioners for Ecclesiastical Causes was a sort of Inquisition, or at least a certain Forerunner of the new way of converting People, by the irresistible Eloquence of arm'd Dragoons: The levying Mony for and to the use of the Crown, by pretence of Prerogative, for other time, and in other manner than the same was granted by the Parliament, was nothing else but a preparatory contrivance

trivance to try afterwards a *French* Experiment upon the Gold and Silver of the Nation: The horrible and illegal Punishments inflicted by corrupt Judges, excessive Fines and Bails, and several Grants and Promises made of Fines and Forfeitures before any Conviction or Judgment against the Persons upon whom the same were to be levied; and all the other Injustices, Grievances and Irregularities of those days, were but previous dispositions to the new modelling of the Nation into a Frame, the more easily to be wrought upon by the *Romish* Priests, in case their weak Arguments could not prevail, as 'twas impossible they should have prevail'd, in a Nation so well provided and stock'd with solid Learning, both against Error and Superstition.

Security
against Po-
pery.

5. If this was our condition within our selves, it was made much worse by the dismal prospect of the threatening *French* Greatness: The *French* King's known and close Engagements with the late King *James*, the sudden Growth of his Power both by Sea and by Land, seem'd to threaten all his Neighbours with the utmost Desolation, unless, by laying aside the use of their Reason, they acted all like Fools, and turn'd Papists; which could not secure them neither from Oppression and Slavery, since none are greater Slaves, nor so unmercifully oppress'd as the *French* Papists themselves. This is but a short and summary view of the publick Calamities and Miseries we lay under, till our Deliverer came over to free us from them, by the best Methods our Representatives could fall upon for our safety in time to come; which are certainly such as give full satisfaction to all good Men and loyal Subjects, that are not still in love with Popery, and Slavery both of Body and Soul, which always attends it: So that the present posture of our Affairs is now such, that we have all reason to hope, if we can but agree among our selves, this Kingdom may become again, as 'twas of old, the Terror of *France*. *Europe* never bid fairer for a level of the *French* Monarch, he being now surrounded on all sides by those he has made his irreconcilable Enemies, by his daily breaches of Oaths, by his Oppressions and Invasions, contrary to all Treaties made with him, either of Peace or Truce.

Supply of
Money given.

6. We cannot then but highly commend the prudent measures of the last Parliament, for supplying his Majesty with necessaries towards a vigorous prosecution of this present War, which the Nation so long wish'd for in vain, the *French* Interest prevailing too much formerly at the Court of *England*, against the Interest of the Protestant Religion, and of the *English* Nation. Such then as complain of some present hardships, always unavoidable in time of War, and would fain work the People into a belief of a happier condition under another change of Affairs, seem not to understand their true Interest; for must we expose our selves to a certain ruin, to the loss of our Lives and Liberties, by not contributing liberally to the maintenance of a War, so necessary in this present juncture of our Affairs? Our *All* lies now at stake, our Lives, Properties, Liberties, and Religion: Should any *Tax* or *Impost* put us out of humour, and cause us to wish for a change, as if we could pretend to any security, in case things were settled again upon the same Foundation they were on before?

Popish Rs
cannot keep
Promises.

7. Are we not sufficiently acquainted, from daily experience, with this undoubted Popish Principle, *That a Papist is obliged to break his Oath taken not to extirpate Heresy, as soon as he is in a capacity to root out what he thinks Heresy, under a no less pain than that of eternal Damnation?* King *Lewis* has satisfy'd all the World, by what he has lately done, that this is no Calumny; and King *James* clear'd all our Doubts upon the matter, by what he likewise really did, and endeavour'd to do.

Groundless
Complaints

8. But a late seditious Pamphlet tells us a tragical Story of the Decay and Loss of Trade by this present War, *That the Dutch run away with our Trade at Sea, and the French with our Ships*: This is but a mere groundless flourish, that can only make impression upon some weak Minds, that neither understand their own Interest, nor that of the Nation they are in. 'Tis true, we have lost several Ships, and that is unavoidable in the beginning of any War as well as in this, till the Merchant-men bound homewards are inform'd of a War declar'd, which must needs require some time: but of late we have lost none, or we have taken the equivalent of our Losses from the Enemy; and for the time to come, his Majesty has taken such measures, that it shall not be hereafter in the power of the *French* to put a stop to our Trade, either into *Holland*, *Spain*, the *East-Countries*, or *West* and *East-Indies*. And as for the *Dutch*, 'tis a groundless Supposition, tho too often in the Mouths of such as are disaffected to the Government, *That they run away with our Trade*, since the contrary may be easily made out to an unprejudic'd Mind: Do we not trade still, as well as the

the *Dutch*, both to the *East* and *West Indies*, to *Swedeland*, *Denmark*, *Hamburg* and *Poland*? Do the *French* allow them free Passage more than to us? And if they send abroad greater Merchant Fleets, and perhaps under greater Convoys than we do; by so doing they rather lend us a helping hand than wrong us, because in the mean time they clear the Seas of *French* Privateers, which makes of course our Voyages the safer, and great Convoys not so absolutely necessary as they would be at another time, when we were not in Union with the *Dutch*. So that such Reflections are either but idle and frothy Discourses, or made on a design to raise Sedition, and stir up the Nation against the present Government. But grant that what this disaffected Pamphleteer says were really true, as it is not in the full measure he would have it, let us ballance our present decay of Trade on the one side, and on the other hand the Consequences of not prosecuting vigorously the present War against the *French*, and we shall easily discover either the gross mistakes of such as discourse after this rate, or their real designs to ruin their Country, by preferring a small incon-
 veniency of not so full a Trade, to the very being of Liberty and Religion, and perhaps of the Nation it self.

9. For let us allow to this pretended Politician the desir'd change of Government he seems to aim at: this can never happen but in one of these three ways, either by the returning of King *James* again, or by the Invasion of King *Lewis*, or by a Civil War at home; which last thing, if some do really intend, they design nothing else but their own Ruin and that of their Country: and if they would have King *James* to come again, must he come in by Conquest? If he ever recovers *England* by Conquest, where are then our Properties, our Liberties, our Religion, our Laws, and whatever Privileges we now glory in, and that no other Subjects in the world can boast of? Would they have King *James* come in again by Agreement? Besides the apparent impossibility of the thing upon several and obvious accounts, I would willingly be satisfied, as I was saying before, how we can trust him after so many violations of his Word, and since by the Principles of his Religion he is oblig'd in Conscience not to keep either Word given, or Oath taken, to protect and promote Heresy, if he is once in power to destroy it. If our Pamphleteer pretends to a Change of Government by a *French* Invasion, he must either be a profess'd *French* Papist, or a very bad *English* Protestant, and quite of a different temper from all true *English* men, who have stood in opposition from all times to the *French* Interest, not only upon the account of the Protestant Religion, but likewise because of their Civil Rights, both which they must of necessity have parted with, if the *French* ever got footing in *England*.

10. I confess, as things now stand, there is little or no danger at all of their attempting the Conquest of their antient Conquerors the *English*, because of our Union at present against *France* with so many powerful Allies: but yet if we take not hold of this opportunity by the Fore-lock, I know not what may happen in another Scene of Affairs, in case we were left alone to deal with the *French*, who by the connivance of the last two Reigns, are become so formidable at Sea, as to be a match either for Us or the *Hollanders*. Now can any Man of reach blame the King for recommending so often to the late Parliament the absolute necessity of prosecuting vigorously the present War, in this present juncture of our Affairs; or find fault with the Representatives of the Nation, for supplying him with the necessary Sinews of War; especially since he has offer'd to give them an account of the disposal of their Mony for the very uses they design'd it for? Neither can we be jealous of his Majesty's Design in calling in Foreigners, in order to the speedy Reduction of *Ireland*, because 'tis a matter of great consequence for the humbling of *France* both by Sea and Land, together with our Allies, to put an end to our domestick Broils with all possible expedition; and this cannot be better perform'd, than by joining to our own Forces a Body of veterane and experienced Foreigners.

11. But this looks, say some of our Malecontents, as if his Majesty mistrusted his own Subjects; which, if narrowly look'd into, is a mere groundless aspersion, since all his Majesty's Forces both by Sea and Land, an inconsiderable number of Foreigners excepted, are Natives either of *England*, *Scotland*, or *Ireland*. Does the *French* King mistrust his own Subjects, because of his joining with them several foreign Nations, as *Switzers*, *Italians*, and both *English*, *Scotch*, and *Irish* upon occasion? The true reason of this common Practice is, that an Army consisting of Forces of different Nations is upon this account more formidable than it would be if it consisted of mere Natives, that both those Foreigners and the Natives fighting

Confederacy against France.

Objections of the Malecontents answered.

through emulation, leave no Stone unturned to out-do one another; the observing of this Maxim made the *Dutch* a free People, to the pitch we see them in at this day. The *French* likewise owe in part their present Greatness to the Valour of the *English*, *Scots*, and *Switzers*, who fighting not so much out of any particular kindness to them, as for their own Reputation, were wont to overthrow whatever stood in their way, to the great Advantage of the *French*, under whose Pay they then were; undoubtedly this is his Majesty's Design in sending for Foreigners, that the Natives may act their parts the better by Emulation and Example. So that tho it be allowed to be true, as certainly it is, that King *William* has a sufficient number of his own Subjects to reduce *Ireland*, and those of an unquestionable Valour too; yet it is prudence in him to call in Strangers, to give Life and a new Vigour to his Armies upon occasion.

Foreigners
necessary.

12. But in our case there is another reason not to be dissembled, why the present Government thinks it necessary to make use of Foreigners for our Assistance, and it is this: That tho the Nation be full of stout and valiant Men, that might alone do the business, yet 'tis to be considered in this unparallel'd Juncture of our Affairs, that if we divide the three Kingdoms into six parts, two I doubt, at least, would prove either *Jacobites*, or disaffected to the present Government. Now what if the King raised an Army, consisting in part of *Jacobites*, or of Persons disaffected to the present Government, since 'tis hard to know the bottom of mens Hearts; what if, I say, this hapned, might not such an Accident as this, not altogether impossible, endanger the whole Nation, and throw it into the greatest confusion imaginable, either by setting up King *James* again, and the *French* Interest, or by converting this antient and moderate Monarchy into a Commonwealth, which would prove perhaps no less the ruin of the Nation, than an Arbitrary and Tyrannical Government? Is it not then more advisable now, and I am sure those that love their Religion and the present Interest, will be of my Opinion, to make use in this Juncture of Foreigners, together with the Natives, to keep a little in awe the hidden *Jacobites*, and such as are disaffected to this Government, lest they undertake to ruin the Nation, upon the first fair Opportunity to execute their treasonable and pernicious Designs? This Complaint of our Male-Contents had been more plausible in another Juncture of Time, than in such an one as this is, which once successfully over, and a Peace concluded, we are secured by our Laws from our own standing Forces, as well as from Foreigners. In the mean time we ought to look to our selves, as all wise Men ought to do, and secure our selves against pressing and present Dangers the best way we can, without minding remoter Accidents, and merely possible Events, that are not yet so much as in prospect: for upon mere Apprehensions, and groundless Fears of what is never like to happen, to put a Veil before our Eyes, hindring us to see the Brink of the Precipice we now stand upon, is an unaccountable piece of Folly, or rather Madness, that no Man having his Wits about him can be guilty of; yet we must needs prove guilty of such a Madness and Folly, if thro a groundless fear of what can never happen in *England*, as things are now ordered, we should scruple to secure our selves by the help of Foreigners from the *Jacobites*, and the Male-Contents, who might perhaps get the upper hand, if not prevented in time by some good Method as this is now thought to be.

No Invasion
on our Li-
berties.

13. No farther Incroachments upon our Rights and Privileges are to be feared in time to come, since the bad Success of all our late Kings is an Example to all their Successors, wherein they may read their Destiny, if they understood so little their own Interest as to act Arbitrarily, as some of their Predecessors did, to the great Disturbance indeed of their Subjects for a time, but at last to the utter Ruin of Themselves and their Adherents. His present Majesty is so fully perswaded of this Truth, viz. That the Sovereign's Greatness in *England* depends chiefly and only upon the Love of his Subjects; that taking his Interest and the Peoples to be the same, as really it is, and always ought to be, to shun the dangerous Factions of Court and Country, he prudently complied with their just Desires to whatever they thought fit to be done for the common Good. I am then of Opinion, that *England* was never so happy as 'tis now [laying aside the Consideration of the present War so absolutely necessary] because of the good Understanding of the King and his Subjects, tho our seditious Pamphleteer leaves no Stone unturned to divide them: Whoever he is, he must needs be a Man of a strangely disaffected Spirit, since he blames the late Parliament for allowing his Majesty so much Power as makes him a true King, and not the bare representation and shadow of One, as he would really

really be, if according to the project suggested by this Man, he should not be allowed so much as the liberty of chusing his own Counsellors, nor of proroguing Parliaments either upon occasion, &c.

14. The suspending and stopping, or *stabbing*, as he calls it, of the *Habeas Corpus* Act, puts him in a great fit against the late Parliament, as having by this Suspension wronged the Liberty of the Subjects: yet if before we give our last Judgment upon the Matter, we consider as we should do all things impartially, not suffering our selves to be byassed by a wrong apprehension of things, we shall easily discover that the suspending of that Act, at that time, was the only way to secure our Properties and Liberties, by preventing a Civil and Domestick War, which in all likelihood had ensued, had it not been prevented in time, by empowering the King to secure such as, because of their Quality, or their former Engagements with the Papists, and with the then Male-contents, were likely to prove Ring-leaders to new Disturbances, in a time when things were not as yet settled upon so sure a Foundation as they now are.

Habeas
Corpus
vindicated.

15. But nothing more insufferable in this seditious Pamphleteer, than his affected jealousy of his Majesty's being a sincere Protestant; as if the Nation should be the more afraid of him upon this account, because forsooth the Parliament is likelier to give him more Power, than if he were a Papist, or of a contrary Religion to that of the Nation. This is such an unaccountable Reflexion, that I cannot but wonder to hear it from the Mouth of any Man, that either pretends to common Sense, or Reason: for, first, At this rate of arguing, it would be better for us to have a King we hated, and feared, than one of the same Religion we loved, and were sure of; which is such an absurd Inference, that none but a Madman can propose it as reasonable. Secondly, Grant what he says to be true, as it is not, our Religion however is secure, and perhaps the securer, the greater Power we trust him with. But, Thirdly, as our late Representatives gave so much Power to our Glorious Deliverer, as made him a King, and a powerful one too; so on the other hand, they have had so much regard to the Safety of the People, as to secure their Privileges and Civil Rights from any future Incroachments of the Prerogative, as may easily be made out by the late Act, declaring the Rights and Liberties of the Subject, and settling the Succession of the Crown.

16. The Popish Subjects are generally so oppressed by their absolute Sovereigns, that thro an excessive Flattery, and fear of Blows, they seem to worship their Kings as Gods, allowing them an illimited Power; which no Man of sense can admit of in a Being of a limited Nature, or at least allowing them to be the Fathers and absolute Masters of their People, tho the Kings generally came out of the Peoples Loins, as being at first made by them, and not the People out of theirs: and tho Subjects ought not to lord it over their Sovereigns, as Masters, yet they ought not to be their Slaves neither, but are to enjoy under their Government such Privileges and Liberties, as may settle them in an unalterable State of Happiness, that the Princes themselves may not destroy at pleasure; for as nothing is more rational than that we should submit in all things to the absolute Power of God over us, so nothing is more unreasonable than a blind Obedience to earthly Princes, as if they were as infallible as God himself; whereas their very Kingship proves sometimes an occasion to make them the more liable both to Error, as being often misinformed of things, and to Sin likewise, if they are not truly Religious, as King William undoubtedly is, because of their uncontrolled Power of doing what they please.

Absolute
Power in
Popish
Countries.

17. For these and other Reasons of that kind, tho William the Third, whom God long preserve, be the mildest and moderateest Prince that ever sat upon the English Throne; yet our Representatives, to secure us from the Encroachments of this, and all succeeding Ages, have thought fit to declare and establish the Rights of the People so fully, and upon such a sure Foundation, that England now is the securest and the happiest Nation in the World, if the Natives can be but sensible of their own Happiness. *Fœlices nimium bona si sua norint Agricolas!*

18. Four things especially declared in this Act, secure us from Oppression, Tyranny, and Arbitrary Power. First, The rejecting of either a dispensing or suspending Power. Secondly, All Grants of Money for or to the use of the Crown, reserved to the Parliament for the time in being. Thirdly, The disbanding of standing Armies in time of Peace, unless the Parliament give consent to the keeping them on foot. Fourthly, The settling of the Succession of the Crown. I need mention nothing else contained in this Act, to shew that we are the only Subjects in the

Security ob-
tain'd by
the Act of
Settle-
ment.

the World that can boast of Freedom and Liberty, in case our Princes cannot dispense with our Laws, as they cannot without our leave, since they are not to give us, for the only reason of their Kingly Actions, *Tel est nostre bon plaisir, Their good Will and Pleasure*, as the *French* King does; for however the *French* Modes have taken with us of late, we could never yet fall in love with so absolute a Mode as this. As our Kings must act by Law, and not absolutely, tho real Kings, they do nothing of moment but by and with the Advice of their Parliaments: Our Happiness then consists in this, that our Princes are tied up to the Law as well as we, and upon an especial account obliged to keep it up in its full force; because if they destroyed the Law, they destroy at the same time themselves, by overthrowing the very Foundation of the Kingly Grandeur, and Regal Power. So that our Government not being Arbitrary but Legal, not Absolute but Political, our Princes can never become Arbitrary, Absolute, or Tyrants, without forfeiting at the same time their Royal Character, by the breach of the essential Conditions of their Regal Power, which are to act according to the antient Customs and standing Laws of the Nation. If we are happy upon this account, that our Kings can neither suspend, nor destroy our Laws; we are no less to be envied that our Purfes are secured from the Encroachments of an aspiring Covetousness, by that part of this Act which tells us, *That levying Mony for, or to the use of the Crown, by pretence of Prerogative, without grant of Parliament, for longer time, or in other manner, than the same is or shall be granted, is illegal.*

Freedom of
England a-
bove other
Nations.

19. We may easily think our Security greater than that of any other Nation in Europe, if we reflect but a moment upon this important Article, that we are never obliged to open our Purfes, but by the Order and Consent of our Representatives, whom we have trusted with the Care of our Interest; which being equally theirs at the same time, we have no reason to fear that they ever lay any Taxes upon us, but when it is absolutely necessary for the preservation of our Lives, Liberties, and Religion, as all seeing Men confess it to be in the present juncture of our Affairs, to prevent the return of Popery and Arbitrary Power. This Privilege has made our Government to be envied by all the Neighbour Nations, and the happiest that can be imagined; for there being no surer way for a Prince to become Absolute, Arbitrary, and a Tyrant, than to impoverish his Subjects to that degree of Want and Misery, as may force them for Subsistence to comply with all his Desires, whether just or unjust, he is disabled by this Act from doing them any mischief that way, I mean, by squeezing the Blood out of their Veins, that is, the Mony out of their Pockets, for any design he might have of ruling over them as mere Slaves. To the want of this Privilege, we may chiefly ascribe the Slavery the *French* Nation groans under, their Prince disposing absolutely of their Estates at pleasure, and laying such heavy Taxes upon his Subjects, as leave them not Mony enough to buy Leather Shoos, instead of which they are forced to make use of Wooden ones: So that the *French* are not so much in the wrong as one would think, when in their flattering Panegyricks they stile him sometimes their God, since they in a manner are his Creatures, whom he creates or destroys by the least word of his Mouth; for so absolute his Power is, that his Will is the only Law they can depend upon; inso-much that when he publisheth his Orders for gathering of Mony, if his Subjects cannot supply him otherways, they must sell their Goods, and whatever they have, to give him what he demands: Yea, I have known in *France* poor People sell their Beds and lie upon Straw; sell their Pots, Kettles, and all their necessary Household-Goods, to content the unmerciful Collectors of the King's Taxes. By this little hint we may easily see how much happier we are, as being laden with no Burdens but what we are able to bear, and enjoying securely our Estates, and whatever we can call our own, under the protection of our Laws. Should we then leave any Stone unturn'd to keep our selves as we are, by opposing to our utmost such a cruel Conqueror, as the *French* King would undoubtedly prove, if he ever to our great Misfortune subdued us?

No stand-
ing Army
in Peace.

20. But let us speak one word to the third thing I mentioned before, That by this Act we are to have no Standing Army in time of Peace: the Advantage whereof we may easily conceive, if we look a little aside towards our Neighbours the *French*; they suffer patiently in time of War the heaviest Taxes, and would not think themselves so much to be pitied, as now they are, if a Peace concluded with the Enemy bettered their Condition; for they are then in a worse condition in a manner than they were before, because the Standing Armies impower their Prince to do what he pleases in time of Peace; 'tis then that he looks about him to con- sider

der who has got together any considerable Treasures, that he may ease them of them, tho lawfully gained, and by good Services done to the Crown: so that it is no wonder if the *French* Subjects chuse at any time War rather than Peace, because in time of Peace their King's Armies are wholly imployed against them, whereas in the time of a settled War, they are partly taken up in opposing a Foreign Enemy. Let the impartial Reader judg from the Premises the Happiness of the *English* Subjects, compared with the miserable Condition of the *French*.

21. The late Parliament has done another thing, without which, notwithstanding all our other Advantages contained in this Act, our Happiness had not been lasting, as it is now like to be for ever; and it is the Settling of the Succession of the Crown upon Protestants, and none but Protestants: The words of the Act are so remarkable, that I think it fit to insert them here before I give you my Reflections upon them.

Whereas it has been found by sad experience, that it is inconsistent with the Safety of this Protestant Kingdom, to be governed by a Popish Prince, or by any King or Queen marrying a Papist; The said Lords Spiritual and Temporal, and Commons, do further pray that it may be enacted, That all, and every Person and Persons, that is, or shall be reconciled to, or hold Communion with the See or Church of Rome, or shall profess the Popish Religion, or shall marry a Papist, shall be excluded, and be for ever incapable to inherit, possess, or enjoy the Crown and Government of this Realm, and Ireland, and the Dominions thereunto belonging, or any part of the same; or to have, use, or exercise any Regal Power, Authority, or Jurisdiction within the same: And in all, or every such case, or cases, the People of these Realms shall be, and are hereby absolved of their Allegiance; and the said Crown and Government shall from time to time descend to, and be enjoyed by such Person, or Persons, being Protestants, as should have inherited and enjoyed the same, in case the same Person, or Persons, so reconciled, holding Communion, or professing, or marrying as aforesaid, were naturally dead.

22. Nothing is more certain than what is here asserted, That it is inconsistent with the Safety of this Protestant Kingdom to be govern'd by a Popish Prince, or by any King or Queen marrying a Papist. If we look back to the publick Transactions in the days of King *Charles* the First, we shall soon be convinced of this undeniable Truth, since we may derive all our Domestick and Civil Disturbances from his marrying a Popish *French* Princess, who at last became so troublesome to him, that he was forced to send home to *France* again all her Attendants, in hopes to bring her to a better temper, by removing from her such Popish Emissaries as were thought to put her upon some dangerous Designs, which made the Nation jealous of her secret Intrigues with *France*, yea and sometimes of the very King's Religion, as if he had been perverted by the Queen, or her Priests, or had shown himself somewhat too much inclin'd to the Popish way of Worship. But whether things were just as the People fancied them, or not, it is certain this unlucky Match was the occasion of our Civil Wars, and of so much Bloodshed in these three Nations. Such another Suspicion as this was the secret Spring of all our late Domestick Troubles during the Reign of King *Charles* the Second; for tho he professed outwardly the Protestant Religion, yet the People, upon what grounds I know not well, could not be sometimes satisfied, but that he was either a Papist, or popishly inclined; and upon this very account the Nation was always apprehensive of *French* Pensioners, of Popish Plots, of Tyranny and Arbitrary Power. Now such Apprehensions and Fears could not but be the Seed of Divisions among us, of Heart-burnings, and either of grounded or groundless Jealousies, to the endangering the Peace and Safety of the whole Kingdom. So true it is, that it is inconsistent with the Safety of this Kingdom to be governed by a Prince thought to be popishly affected, but sure far more to be governed by a sincere, zealous, and professed Papist, as we all know King *James* gloried to be. How near we were the brink of our Ruin during his Reign, and how unavoidable our intire Ruin was, had he reigned longer over us, is so evident to all seeing Men, that I need not enlarge upon the Matter here. I shall only add in this place, in order to make out the Truth of what is asserted by the late Parliament, *That it is inconsistent with the Safety of this Protestant Kingdom to be governed by a Papist; that when our Prince is a real Papist, he is obliged by the Principles of his Religion, to do his utmost endeavours to subject his Subjects to the Pope's Jurisdiction.*

No Popish
King or
Queen.

23. First, Because he must then of course look upon his Subjects as real Hereticks and Schismatics, whom if he do not root out by all possible means, he is liable to be deposed by the Pope, according to the famous and known Decision of the third Council of *Lateran*: How then can a Protestant Nation put any trust in such a Prince, whose whole business is, and ought to be, to destroy their Religion, and force them to return to the old *Romish* Superstitions again? And if Subjects cannot trust their Sovereign, it is but rational to think they will take all imaginable measures to prevent their own Ruin, and that of their Religion, always dearer to them, if they have any Piety at all, than their very Lives. But these very measures, how just soever, must needs breed stirs in a Nation, to the general disturbance of the Natives, since the Politick Body, no more than the Natural, can be a moment in a quiet Temper, without a free and friendly Intercourse and Communication between the Head and the Members. Secondly, If a Popish Prince is oblig'd in Conscience, as I elsewhere intimated he is, neither to stand to his Promise nor Word given to protect Hereticks and Heresy, how can he sincerely promise to maintain and defend our Church? or rather how can we be so silly as to believe he will maintain it, since it is not in his power to do it, in case he finds himself in a posture to undertake its ruin? But, Thirdly, to be somewhat more particular, the Safety of this Nation was inconsistent with the Government of the late King *James*, upon a particular account that I shall here mention.

Cruelty of
the late
Persecution
in France.

24. Of all the different Persecutions of the Church of God, none can be compared to the late Persecution of *France*, both for its Cruelty and Novelty. The *Roman* Emperors, I confess, exercised all imaginable Barbarities upon the Bodies of the Primitive Christians, but never attempted, or pretended any right over their Souls and Consciences; they banished them, tortured them, invented all sorts of Death to destroy them: but the art of Dragooning Men into Religion, was reserved to be the contrivance of *Lewis* the Fourteenth, tho he was engaged by the most solemn Edicts of *Nants* and *Nime*, and by his Coronation Oath, to protect and defend the *French* Protestants with all their Rights and Privileges. Had he declared he would suffer no longer the *Hugonots* in his Kingdom, and ordered them upon that account to depart out of it if they could not change their Religion, we had not complained so much of his severity, how Antichristian soever: but not to suffer his Subjects to leave him, nor to live with him, without turning to his Principle, and that not by Argument, but by all the Wounds the Dragooning Sword could inflict, that of Death only, which in this case was the least, excepted, is such an example of Cruelty, as is not to be parallel'd by the greatest Fury of the *Roman* Persecutions; and which without doubt contributed not a little to our late happy Revolution, by determining the *English* thro an absolute necessity to do what they did for their own safety. For had they not reason to look to themselves, considering the Proceedings of the *French* King, contrary to all his Oaths and Promises to maintain, defend, and protect the *Hugonots*? They could not but know the late King *James* was more devoted to the Interest of the Church of *Rome*, than *Lewis* the Fourteenth himself; so that they could not in prudence but take the measures they have so successfully taken, for their own Preservation, and that of the Protestant Interest in general. In one word, nothing could be more terrible to the *English*, who are so much in love with Liberty and Property, than to see themselves threatned to be dragoon'd out of both, by the help of such a powerful Ally as *Lewis* the Fourteenth. The late Parliament then considering the great progress King *James* had made, in a very short time, towards the bringing in of the *French* Method of converting People to Popery, and what impressions such a Precedent as that of *France* might make upon a Prince, that needed no spur to the promoting of his own Religion, thought it fit and absolutely necessary, for the safety of the Protestant Religion, and the Peace of this Kingdom, to exclude for ever from the Imperial Throne of *England* all Popish Princes; whereby not *England* only is secured from such Troubles as always ensue upon any jealousy between the King and the People from different Principles of Religion, but likewise all the Protestant Princes abroad are encouraged to stand their ground against Popish Invaders, since they may be sure of seasonable succours upon occasion from the Protestant Princes of this powerful Monarchy.

Tho what has been hitherto said, does sufficiently justify all the proceedings of the King, and late Parliament, to the satisfaction of all such as are but impartial Men, and not disaffected to the present Government; yet because some Men seem discontented at two things not done by the late Parliament, and which they think ought

ought not to have been omitted, as being undoubtedly of no small consequence for the publick Concerns, and Peace of the Nation; it may not be amiss in this place, to clear all their scruples upon these two Heads, viz. Why the late Parliament neither settled the Militia of the Kingdom, nor passed the Act of Indemnity, tho earnestly pressed to it by the King, in order to the quieting of Peoples minds. As to what relates to the settling the Militia of the Kingdom, it is to be considered, that how necessary soever it may seem to be, it was neither perhaps possible as then things stood, nor expedient to settle it, by reason of the uncertain and unknown Disposition of most Mens minds at first, in all great and sudden Revolutions, but more especially in such an extraordinary and unprecedented one as ours was. For since our greatest strength consists in our Militia, can any Man of sense think or say, 'twas either fit, or secure, in the then posture of our Affairs, to deliver up the very Bulwark of the Nation into the Hands of such high Officers, as the Lieutenants of the Militia are in *England*, till it was better known that those who were fit for such Places, were really Men of such a temper, as the present Government might trust to, and rely upon? For extraordinary Revolutions of State being much of the nature of great Waters, tossed to and fro by boisterous Winds, do always require some time before they are settled again, in such a calm as may encourage both private Men to follow their former measures, and likewise those who sit at the Helm to undertake and prosecute the fittest Methods for securing themselves, and the People under their Government, from new Dangers and Storms, always to be feared after a sudden and unexpected Calm, as ours was; we were under such a dismal Cloud of imminent and threatening Dangers, a little before the Heavens cleared up from the *Dutch* coast, that we do wonder at this very day, to see our selves escaped such an unavoidable Shipwreck, as we thought our selves then exposed to: but it is not enough that we are got on Shore, and a *terra firma* to stand upon, unless by looking nearer into the matter, we consider seriously with our selves, how to maintain our ground, and settle what we have done upon a sure foundation. For as our late happy Revolution was a real one, how odd soever and unlooked for, so considering how easily Men change their Resolutions, and because it might be immediattly succeeded by an unhappy one after the like manner, it was a piece of great Prudence in our late Representatives, not to be over-hasty in settling the Militia of the Nation, till both they and the King were thoroughly acquainted with those who were to be trusted with Commissions of such an high concern: but it being impossible they should understand their real temper, while all things were yet on float, no wonder if they deferred the settling of the Militia, till the Hearts of Men were known to be first settled, which time only could inform them of. As to the Act of Indemnity, it is clear there was little or no inconveniency to defer it for a while; for since it relates mostly to such as have been guilty of Irregularities, and Illegal Proceedings in the late Reign, where is the harm if the Government keep them somewhat in awe, by deferring their Pardons to more settled times, lest they might prove Ringleaders to new Changes, if they were not check'd by the fear of the punishment their past Crimes deserve? For it is a groundless reflection to say, that the not passing of the Act of Indemnity encourageth them to do their utmost endeavours towards the bringing in of King *James* again; since it is clear to all Men acquainted with the present posture of his Majesty's Affairs, both at home and abroad, that they must needs despair of ever being secure, if they hope for no security till King *James* is settled upon his Abdicated Throne again. And may not I be allowed to say, that to judg of things to come by the present temper of the Nation, they are in no danger at all, or at least not so great as some would have them apprehend it to be, because of the great moderation the Government has hitherto shewn, and will undoubtedly shew hereafter, to all such as are willing to comply with the present, that is the Protestant Interest, in opposition to Popery, and the *French* King's Designs against our Properties, and Liberties, if by the help of the *Irish* Papists, and other Male-Contents, he were enabled to conquer us? But to mention here another pressing particular relating to this Subject, since it is well known, that at the sitting down of the late Parliament, the King, by the advice, yea and earnest request too of our late Representatives, entred into a necessary War against *France* on the one hand, and against the *Irish* Papists in *Ireland* on the other hand, I would fain know from any not designing Man, what was fittest to be done in this case: Was the time to be trifled away with the settling of the Militia, and passing an Act of Indemnity, before any supplies had been granted his Majesty, for maintaining this Kingdom, and his Subjects, against the formidable *French* King's Fleets at Sea,

Militia
why not
settled.

Act of In-
demnity
why not
pass'd.

and his *Irish* Forces at Land, commanded by the late King *James* in *Ireland*? Sure all Men of sense must needs confess, that this Principal was first to be minded before any such Accessories, as undoubtedly these were, in that juncture of our Affairs. Now it is methinks evident, that the ordering the Sinews of great Warlike Preparations both by Sea and Land then, which were so necessary, could not but take up a great deal of time, especially when the Mony is to be levied, in due proportion, upon all the chief Subjects of the Nation; the necessary debates upon such occasions, about the Sum it self to be raised, upon what, and the manner how it is to be gathered, are things of such a nature, as cannot be done on a sudden, whatever Mens endeavours may be to bring them in a short time to a period. The late Transactions of the last Parliament, besides the Nature of the thing it self, are evident proofs of what I do here affirm, to all such as understand any thing in Affairs of this kind, which are never done in *England*, otherwise than by Meetings, Conferences, Committees, Debates, Votes, and such other like Methods used in Parliament, upon all matters of a General and National Concern. To conclude, notwithstanding all that I have said, grant it was expedient, tho I have sufficiently proved it was not, to settle the Militia of the Kingdom, and pass the Act of Indemnity, before any thing else; these so much talked of omissions are both inconsiderable in themselves, since we smart not yet for them, and not at all dangerous in their Consequences, which if really hurtful, may easily be prevented by the next Parliament.

A DISCOURSE concerning the Nature, Power, and proper Effects of the Present Conventions in both Kingdoms, call'd by the Prince of *Orange*, 1688.

S I R,

BY your last I perceive, that you and others you have convers'd with in the Country are strangely amus'd with the Conventions call'd by the Prince of *Orange* in both Kingdoms, not knowing by what Authority they are call'd, or what their Nature and Power can be, seeing they are alien from all the Courts and Judicatures of the Kingdoms, without any mention of them or warrant for them in Law, and thereby they can be capable to do nothing authoritatively or warrantably: You do suppose that I being upon the place, can be able to give you a better account of them than doth occur to your Apprehension; I am very willing to satisfy your desire in a matter of so great and common a Concern, as far as my reach can go: For these Conventions can most properly explicate their own Power.

I shall endeavour to clear to you what the Nature of these Conventions are, and what Power I conceive them to have, and by what Warrant they are call'd.

*Nature of
Conven-
tions.*

You must then consider, that in all Commonwealths constituted by Men, there must be two Contracts and Agreements, express or tacit, by Word or Deed; one amongst these Families who unite themselves into one Body Politick, whereby they are incorporate and become one People, and for distinction sake this may be call'd the *Popular Contract*; the other is between the Sovereign Power and the Body Politick, which two make up the Commonwealth, and settle the Government of it in such Person or Persons, and with such Powers as they agree; this may be call'd the *Rectoral Contract*, by which the Sovereign Power is to govern and protect the People in all their Rights, and whereby they become Subjects obliged to obey.

*Popular
Contract.*

The Popular Contract must have been enter'd by the Fathers of the Families incorporated; for before the Erections of Commonwealths, there was no other Government amongst Men, but the Patriarchal Government of the Fathers of Families
over

over their Wives, Off-spring, and Servants, which was no less extensive while the Fathers liv'd, during so many hundred of years, than many civil Societies that now be, and comprehended all Authority Sacred, Civil and Criminal, and contain'd not only Power over the Families, but also an Obligation impos'd of God to exercise these Powers, whereof their Fathers could not lawfully discharge themselves, and lay that Burden or any part of it upon others, unless there had been a Divine Institution allowing it; and tho the precise time of that Institution be not exprest in Scripture, as neither is the Institution of Sacrifices, yet both of 'em are acknowledg'd in Scripture, and the Institution of a publick Judgment and of Civil Powers, is clear from Rom. 13. *The Powers that be are ordain'd of God, and he that resists the Power, resists the Ordinance or Institution of God.* The Jews (who of all Nations had the clearest Records of time) did attribute the Institution of a publick Judgment to the Precepts or Laws of God deliver'd to *Noah*, and by his Posterity propagated thro the World, by which they judg'd all in their Territories that were not *Israelites*; whereof you may have a full account by the learned Treatise of Mr. *Selden*.

The Divine Institution of a publick Judgment, which is the Original of both the foremention'd Contracts, is in God's Wisdom and Goodness so sufficient and full, that thereby not only all things clear by the Law of God or the consistent Laws of Men could be effectuated, but all doubtful things that could be controverted within the Commonwealth might be determin'd, without necessity of any Sedition, Tumult, or intestine War; and consequently private Judgment behov'd so far to yield to that publick Judgment, as to submit to it, even when erroneous, if the matter were dubious, seeing God did not appoint infallible Judges; which yet cannot be extended to things clearly contrary to the Agreement and Constitution of Commonwealths: otherwise all Contracts betwixt Sovereign and Subject, and all Constitutions and Governments thence arising were elusory, making Sovereigns only punishable by God for the breach of them, but stating no Right of Exaction in the People insnar'd by them, instead of Subjects to become Slaves. Seeing Sovereigns might securely take their Lives, Liberties and Goods at their pleasure, which no considering unbyass'd Person can imagine to have been the purpose of God in instituting a publick Judgment: God did institute the Power of this publick Judgment, but not the Persons that were to exercise it, or the manner how it was to be exercis'd, but left these free to be constituted by Men; and therefore St. *Peter* calls it a human Constitution or Creation.

From this Divine Institution arose Civil Societies in Commonwealths, the Powers and Duties of Sovereigns and Subjects, and the just measures of Sovereignty and Liberty, and the Constitution of Commonwealths by the fore-nam'd Contracts.

The Popular Contract is always in Nature, and sometimes in Time, anterior to the Rectoral one: By it the Fathers of Families engag'd each to others, for themselves and their Families, to keep Commerce together, and to concur in Defence and Vindication of their Rights, by the direction of the Sovereign Power that should be agreed to be set over them by the Suffrage of the plurality of the Fathers of these Families, who before could not be oblig'd by a plurality, but only by their own Consent; ninety nine could not engage the hundredth Person, tho all met and confer'd together, till they agreed that the plurality should be as effectual as the whole, whether it were one plurality, or several pluralities of several States: for it cannot be presum'd that those who were noble and rich, would agree to have no more than an equal Suffrage with meaner Citizens, unless some great necessity or advantage could induce them; nor that the Poor that could not bear burden in the Commonwealth, should be admitted as Citizens, nor Servants, nor even Sons in their Fathers Families during their Lives, tho by him they did then enjoy Privileges, and after all of them succeeded to him as Citizens; yet by making them equal in Power with himself, he would have lost his Paternal Power of governing them: And there may be and have been many other Restrictions and Qualifications of Citizens; all the rest, tho Subjects, being but *Incolæ* or Inhabitants: Citizens have always some share in the Government, either by their proper Birth-right, or by being represented by Election. All the Kingdoms of *Christendom*, after the Feudal Right prevail'd, gave none share in the Government, but those that had the Right of considerable Lands within the Limits of the Commonwealth, whether belonging to single Persons or to Incorporations, except in *Denmark* or *Sweden*; and Laws were made and Taxes impos'd by Emperors and Kings, with the Advice and Consent of the Plurality of all these in one Assembly, or of divers States in separate Assemblies; of the Prelates of the Church for Church-lands, and of the other Ba-

Divine Institution.

Popular and Rectoral Contract.

rons for the Temporal Lands, and of Delegates representing Incorporations, for the Lands belonging to them in common; but afterwards the Barons being multiplied, the minor Barons were all allowed to be represented by Commissioners elected by them.

Sovereign
Power
where at
first.

The Sovereign Power was at first stated in Kings and Princes, who were very many, every considerable City making a several Commonwealth; whereof multitudes are mention'd in Scripture. These Princes were Leaders of their Armies, and Judges of their Controversies, in their own Persons without Deputation, till the Commonwealths swell'd to that Greatness, that, as *Jethro* advis'd *Moses*, they found it necessary to have subordinate Deputies for smaller Matters, and afterwards even for the greater, without appeal to themselves, who otherwise would be overwhelm'd with Affairs Civil and Military; yet so that the Malversation of these subordinate might be punish'd by the Sovereign Power, or by such as were delegated for that purpose.

In the diffusive Kingdoms of the *Assyrians*, *Babylonians*, *Persians* and *Medes*, their Kings could hardly be restrain'd, because their Subjects could not convene as in the lesser Commonwealths; and many of them were not united by popular Contracts, and so were not one Body Politick.

The Excesses of Monarchs gave the rise to Aristocracy, where the Sovereign Power was in the plurality of more Persons; and Democracy, where the Power was in so great a number that they could not deliberate together, that what was said ought to be heard by all. Yea, all these former came for the most part to be regulated by general Laws, to be made with the Advice and Consent of others than those that were in the Sovereign Power.

Athenian
Democracy.

In the *Athenian* Democracy the People could not deliberate, but in those things that were advis'd by their *Præconsultores*, whose Advice, but not their Consent, was requir'd.

Roman
State.

The *Romans* in their Popular Estate could make no Laws, unless they were convened by a Senatorian Magistrate or Tribune of the People, and in most things the Authority of the Senate behov'd to proceed.

All the Kings in *Christendom* by a long Tract of time made no general Laws, but by consent of their Estates, being convened by themselves, or their Deputies; tho some have pretended that they were only call'd to give their Advice. But the constant Stile of their Laws, and their frequent Declarations evince, that not only their Advice, but their Consent was necessary.

Conventi-
ons of the
two King-
doms.

I crave your Pardon that I have so long continu'd in Generals; but you will find it was necessary for resolving your Doubts. These Conventions then of the two Kingdoms are Representatives of the Body Politick of the respective Kingdoms, such as might have been before these Bodies Politick enter'd into a Rectoral Contract with the first of the Kings of the Race that now reigns; and they are no Judicial or Authoritative Judicatures, and I suppose will claim no Power to make Laws, to judg Persons, or to impose Taxes. Neither are they any of the Judicatures of the Commonwealth, deriving Authority from a Sovereign Power; but do proceed by the Judgment of Discretion, not as they are Subjects or Parts of the Commonwealth, but as they are the Parties Contractors with their Kings and their Race. As to which Contract they were and must be consider'd as un subordinate: for they were not Subjects in that Contract, nor their Kings Sovereigns, but by and after that Contract; and therefore they have the same native and inherent Right to deliberate and resolve how far they were oblig'd by that Contract, and how far the present King hath observ'd or violated the same, and therewith the Constitution of the Kingdoms, and the Laws and Liberties of the Subject, and what they may justly and warrantably declare thereupon in this extraordinary Conjunction; wherein the Body of the Nation hath arisen against the Actings of the King, having voluntarily concur'd with the Prince of *Orange*, who upon the Invitation of many, as the sense of the most, came with an Army to encourage them to appear for themselves; which they did before any Act of Hostility by him, or his coming near to the Places where they rose in Arms, and declar'd for him upon the grounds of his Declaration: so that even his Army, tho far stronger, would not assist the King in that Cause, but the most of them join'd with the Prince. So that the King being left to his liberty, remov'd beyond Sea, sheltering himself under the Wings of the most eminent Oppressor of Protestants. I hope this will give you light to consider what is the nature of these Conventions.

The next Point is, What Power these Conventions have, and what they can warrantably do. I have shewn you what I think they should not do; now I shall tell you what I think they may do.

Power of
the Con-
ventions.

First, They are the Representatives of a Body Politick, which by the Popular Contract uniting therein, may judg who are Members of the Meeting; and by the Plurality of the Lords, and of the Commons of *England* in their distinct Assemblies, may over-rule the minor part of those who meet, sufficient Intimation being made to all, or of the Estates of *Scotland* in their meeting jointly.

Secondly, They may resolve whether the Constitution of the Kingdom, and the Rectoral Contract whence it arose, be violated on the King's part, and may agree upon the several violations. I shall not insist on all, but shall give some eminent examples; as first, They may declare, whether the King hath violated the Constitution, by assuming a *Dispensing Power* over the Laws of the Nation, and that his Judges in his view, if not by his Instigation, have by a solemn Sentence declared, That he may dispense with Law, even in the Case of Propriety accruing to a private Person, from a Statute of Parliament; and that those Judges who dissented, were thereupon immediately removed: yea, the same hath been fully and publickly declared, by his publick Declaration in *Scotland*, that *he is an Absolute Monarch, to whom Obedience is due in all things without reserve*. By these the Constitution of both Kingdoms is totally overturned, for they are beyond question Legal Monarchies, regulated by Laws made by the Consent of the Representatives of the Kingdoms assembled in Parliament. And if these Sentences and Declarations were effectual, they would be Arbitrary Monarchies, governable without the necessity of any general Law, with or without the Consent of the Houses, or States of Parliament; which is a greater violation of the Constitution, than if the Monarchy had been turned into an Aristocracy or Democracy, for there is far less importance in the Persons that govern, than in the Power of governing.

Enquiry in-
to Dispen-
sing Pow-
er.

Thirdly, There is nothing more contrary to the Government of *England*, than to overturn the Constitution of the Parliament, by manifest corruption of the Election of Members to serve therein, in overturning the Constitution of the Cities and Boroughs, in annulling the Charters of some upon pretended Malversation of those in the Magistracy, tho it was not in the Power of the Incorporation to restrain them; so that the Magistrates themselves were only punishable; and if they were removed, the Incorporation might name others. And by seducing and threatening those who had Power to elect in the Counties, Cities, and Boroughs, if they did not first give assurance to elect such Deputies as would consent to take away the Test and Penal Laws against Papists. Hence many of the Cities, and Boroughs, seeing what became of their Neighbours, did through fear deliver up their Charters without Sentences; and such whose Charters were taken away, had new ones, of Persons to be in their Magistracy and Council, wholly depending on the King; that the House of Commons, whereof the far greatest part consists of the Deputies of Cities and Boroughs, might be packed at the King's pleasure, and the whole House in danger to be corrupted by these prepossessions; never attempted by any King of *England*, and destructive of the Constitution of Parliament, and of the Security of the Subjects.

Corruption
of Parlia-
mentary
Elections.

Fourthly, There is nothing more contrary to the Constitution of *England*, than to be governed by the Sword, and Martial Law; yet the King raised and kept a Standing Army of a great strength, which did bear down the Kingdom, until the Prince of *Orange* put them in capacity to rise for their Vindication, and many Persons were executed by Martial Law.

Standing
Army.

Fifthly, As the former Violations were of the very Constitution, so the most important Law of the Kingdoms, for securing the Religion therein established by Law, was openly and atrociously violated; by which Law Papists were made incapable of all Publick Trusts, Ecclesiastick, Civil or Military: and yet not only they were put into Vacancies, but Protestants frequently put out that they might be put in, and none left in Publick Trust, who being required would not give assurance to concur in abolishing the Penal Laws against Papists; whereby at once the Law excluding Papists was acknowledged as needing a Repeal, and yet was commonly and knowingly broken without the same.

Religion.

Sixthly, The Violations of the Constitution of the Kingdom of *Scotland* (designed as a leading Preparative to *England*) were yet more gross and palpable: First, by an Act of the Parliament holden in the Year 1685, the King was declared an absolute Monarch, to whom Obedience is due without reserve; which could not fail if

Violations
in Scot-
land.

if it were effectual to overturn the Constitution and Government of that Kingdom, from being a legal Monarchy, regulated by Laws made by the Consent of the Estates in Parliament, into a Despotick or Arbitrary Monarchy, wherein the King might command all things to be done at pleasure, even tho they were in themselves unlawful, there being nothing reserved. But the most benign Construction could not bring it lower, than to import Active Obedience in all things that were not in themselves unlawful; so that if the whole Parliament were commanded to resign the Parliamentary Power into the King's Hands, that there should never be another, it were no less lawful for them to do so, than to consent to that Act which was obtained of them, which no man can think could proceed upon any other Ground, than that they were all in Terrour to be reached for their Lives and Fortunes by Converse with those who had been in Rebellions, whereof there were known and dreadful Examples. Or if a Corporation or City should be commanded to resign their Charters, or Privileges; or if all, or any of the Subjects should be commanded to resign their Estates or Dignities into the King's Hand, and become Tenants at Will; they might lawfully do these things, tho they were very inconvenient, and therefore by that Act they were bound to obey.

*Power of
the Scotch
Convention.*

May not then a Convention of the Estates of that Kingdom consider and resolve, whether such an Act were in the Power of a Parliament; or if it were in it self simply null, without the necessity of a Repeal upon this Consideration, that the Parliamentary Power is founded upon the Constitution of the Kingdom, and therefore every part of it is a Fundamental Law, and a part of the Rectoral Contract betwixt the King and the Body Politick of the Kingdom; which Contract was not with the Parliament, and therefore could not be changed without the consent of the Parties who entered into it by a more special Warrant, than that general one of the Deputies for Shires or Boroughs. Is there any so impudent as to pretend that the States could effectually resign into the King's hands all the Lands of the Kingdom? Or that he with their Concurrence could alienate the Kingdom, or subjugate it to become a Province subordinate to another Kingdom; or could they turn it to a Democracy? In a legal regulated Monarchy no general Command can be given, but what is warranted by a general Law, tho Commands may be given severally in every Controversy. For tho it be said that Subjects ought to obey their Sovereigns in all things lawful, 'tis only to be understood of what is lawful by the Constitution, and Laws made thereupon, and not that which is *licit*, not being prohibited by God; otherwise it were applicable to no Government but that which is Despotick, and could command all the Services the Subjects were capable to do, and all their Goods and Estates. It is a Childish pretence, from the command in the Gospel, to Wives to obey their Husbands, Children their Parents in all things, to extend it to all Monarchs; unless Natural Affections betwixt Parents and Children, and the incommunicable Affection betwixt Husband and Wife were infused into Sovereigns and Subjects: and tho they could, these general Commands are only in relation to the Domestick Society, and the Government thereof, and not to the Property of the Wife and Children; nor could the Husband thereby command the Wife to become a Slave, he remaining free, or to renounce her Joynture.

*The Oath in
Scotland.*

There is another Act procured by the King when Duke, for taking a Test, which is very good as to the Religion, and for excluding Papists; but there is there-to added an Oath, declaring *it unlawful for Subjects upon any Pretence whatsoever to convocate, convene, or assemble in any Councils, Conventions or Assemblies, to treat, consult, or determine in any Matter of State, Civil or Ecclesiastick, without his Majesty's Command, or express Licence had thereto.* This overthrows all the Ordinary Judicatures, Civil or Ecclesiastick, in the Kingdom, which meet by a Warrant of Law, without necessity of a special Command or Licence; and thereby doth evidently and heavily encroach upon the Constitution of the Kingdom. There follows another Clause in the said Act, declaring, that there is no Obligation to endeavour to alter the Government as it is now established in Church and State, which was not only imposed on those in Publick Offices, and upon Members of Parliament, but upon all those who had Vote in Elections of Members to Parliament, whereby many were excluded, conceiving themselves obliged to endeavour some alterations in the Government, either by Divine Right, or by Oaths they were commanded to take, both by King *Charles* the First and Second, being personally present in Parliament, and with the consent of the Estates: and tho there had been no such hindrance, it was an alteration of the Constitution, whereby all Freeholders of the King of any considerable Land or Estate, had a share in the Government by their Birth-right, in

in being capable to elect, and to be elected Members of Parliament. And when this King came to the Crown, he did extend this Oath by an Act of his first Parliament to all Landed-men, whatever the Tenor or Extent of their Lands were, they being Protestants, whereby Papists were excepted. Might not this Meeting of the Estates consider and resolve whether these parts of that Act were beyond the ordinary Parliamentary Power, and a Violation of the Constitution, and so null without Repeal? In all the Zeal against Popery, no King or Parliament did by any Act exclude the Electors in Shires or Boroughs; nor was there any such thing in England, tho the Test was only made for preservation of the Protestant Religion, and excluding Papists from Publick Trust; albeit in both Kingdoms Papists are excluded by Disuse.

Seventhly, In both Kingdoms Justice runs in the Channel of the ordinary Judicatures established by Law, that nothing can be done amiss, for which there are not some Persons accountable; yet by an Act of the Parliament of Scotland, held by this King when Commissioner for his Brother, it is declar'd, *That all Government and Jurisdiction doth originally reside in the King, and that the Offices and Jurisdiction bestowed by him are not privative of his Jurisdiction; and therefore in a dutiful and humble Recognizance of his Majesty's Royal Right and Prerogative as to this point, it is declar'd, That notwithstanding these Jurisdictions and Offices, his Majesty may by himself, or any commission'd by him, take Cognizance and Decision of any Cases or Causes he pleases:* Enervating the Power of the ordinary Judicatures, and giving ground to pick out Commissioners for every Cause, as the Parties are favoured; which breeds a general distrust in the Nation, and was the ground of making the Officers of the Army Sheriffs and Justices, who acted not only with, but without and contrary to the ordinary Judges and Justices, tho they had neither skill nor will to do Justice, but did commit these Insolences under that pretence, which are mention'd in the Prince's Declaration for Scotland. May not then the Meeting of the Estates in Scotland resolve whether this Act be a Violation of the Constitution? and if so, whether it be void in it self without a Repeal? Those of that Nation who are acquainted with the matter of Fact, might shew many more Encroachments upon the Constitution and Laws of that Kingdom; but I only mention some of those I read in publick printed Records.

If these and such Violations be found, the next Point is, what that Meeting may do thereupon, whether they may not declare themselves free of Subjection to the Violator, or any of his Race begotten since these Violations? upon this Consideration, that the Rectoral Contract betwixt him and the Body Politick of these Kingdoms represented in these Conventions, doth by the nature of a mutual Contract necessarily imply, that if the one Party violate his part of the mutual Engagements, the other Party hath two Remedies, he may at his choice either force the Failer to perform, or declare himself for ever free of that Contract. As to the Failer it is true, that by the Law or Custom of some Commonwealths, if the Failer purge the Failure while his Party is in Suit, he may be re-instated, which is not by the nature of a mutual Contract, and therefore 'tis never pretended in the mutual Contracts of Kings and States; and tho sometimes Subjects after such Violations have declar'd themselves willing to continue in subjection, that was an Act of Favour, not of Justice or Debt. But after a Dispensing Power above Law is assumed and asserted, nothing can be said or done, which it cannot as easily surmount as it hath the Laws made and Oaths already taken, even tho the Dispensing Power it self should be disclaim'd; it can as easily dispense with that Disclamation, as what was either Law or promis'd before. If then these Meetings shall declare themselves and the Body Politick free, can they in justice but declare the Crown to be devolv'd upon the Princess of Orange? And in Justice, Gratitude and Remuneration, they cannot but declare, that the Matrimonial Crown belongs to the Prince of Orange during all the days of his Life; for it is inconsistent with Royalty to be for less time than Life, and so to see a King of Britain relapse into a Prince of Orange again. And how incongruous and ungrateful were it to force him, who hath deliver'd Britain, to leave it, or staying there to become a Subject to his Wife? For tho a Queen in possession superinducing a Husband may justly be strictly dealt with, as Philip of Spain by Treaty was excluded from any Act of the Government with Queen Mary, tho he had the Title of King, which he was to leave after her Death, even tho his Child by her should succeed; it imports nothing to this Case, where the Princess was first a Wife, and then a Queen, married to the nearest Male to the Crown: and the Case being so contingent and unlikely, 'tis not to be thought the Princess of Denmark will

R. and Q.
of Castile.

will grudge at it; for if the Pr. of O. had not come, neither of the three were like to have enjoy'd the Crown. When *Ferdinand* of *Arragon* married the Queen of *Castile*, he assum'd the Matrimonial Crown of *Castile* both in her Life and after her Death, tho he had Children by her. The Courtesy both of *Scotland* and *England* gives the Survivancy of the Estate of Wives Inheritance to their Husbands during their Life: and tho Custom hath restricted it to the Case of a Child born in the Marriage, without requiring that Child to survive the Marriage, which might have imported a rational Consideration to prefer the surviving Child in the Mother's Inheritance to her Husband; yet that not being requir'd, there is no ground to extend it to Sovereigns.

Power of
the Con-
vention.

These Conventions have yet a further Power and Use; that seeing the ordinary Parliamentary Power can alter nothing in the Constitution, without a further warrant from the Body Politick, these Meetings may give warrant to establish a Liberty of Conscience in a just latitude, as the Parliament shall judge reasonable, and may also give warrant for an Act to exclude a Popish Successor, wherein the Sovereign Power shall also concur. These Acts will be irrevocable and unalterable, without the like Warrant of the Body Politick, being conven'd with the consent of the King for the time; which will give very much ease to the minds of good People, and also give much security against Popery. The House of Commons pass'd several Votes to exclude a Popish Successor, which came not to perfection, and were not design'd to exclude the apparent Heir of the Crown, being Popish and born; in which case it is dubious whether it could be done without consent of that apparent Heir. But there can be no question that it may be done by the King and Parliament, warranted by these Conventions, tho it exclude Collaterals and Heirs not yet existent. Albeit Queen *Mary* and *Elizabeth* were excluded to succeed to the Crown by their Father and a Parliament, yet they both succeeded; and neither they nor the Parliament found the necessity of a Repeal, in respect these Acts were in themselves void, as changing the course of Succession by an ordinary Parliamentary Power. Likewise these Meetings may give warrant to unite the two Kingdoms, which the ordinary Parliamentary Power could not reach to, unless it were confirm'd or consented to after the Act made by the Body Politick: for the uniting of the Kingdoms, is certainly an Alteration of both, making two Politick Bodys one, and making one Crown for two; but can well be done, if these two Conventions give warrant for it. And there appears a general inclination, as well as convenience in both Nations, more than ever before.

Authority
of the Con-
ventions.

I shall not be much put to it now to shew by what Authority these Conventions are call'd: The Meetings of the ordinary Judicatures are determin'd by Law and Custom, and any other way of meeting is declar'd illegal. But there is no determination of the Calling or Meeting of these extraordinary Conventions; and therefore whatever way they meet, they are valid, otherwise they are not possible, and yet they are in many Cases undeniably necessary; as if the Race of the Kings should fail, or that a King should be a Child, or become fatuous or furious, or should absolutely desert or renounce the Kingdom. In none of these cases could there be a Parliament call'd, till first there were a Protector or Regent nam'd, which only could be made by such Conventions; but a Protector where there is a King of Age and Discretion, is without Rule or Example: and therefore these Conventions must either declare themselves Free, or they must remain the King's Subjects, and be obedient to all his Commands according to Law; they cannot mince the matter. Can any have so good an Interest to call these Conventions, as the Prince of *Orange*, who is the nearest Male, and the Husband of the nearest Female to the Crown, who has put the Kingdoms in capacity to hold such Meetings and declare their just Rights? It is like some upon real Affection to the Prince, and others upon that pretence, but upon intention to shake the Monarchy, and to make way for a Commonwealth, may make use of some matters of fact that have happen'd in either Kingdom prejudicial to the Lineal Succession, which cannot infer a Right against the frequent Declarations of Kings and Parliaments, nor is like to be acceptable to the Prince, not only from his Affection to so excellent a Princess, but from his Declaration in which he has set her Interest before his own.

I hope I shall not need to give you further trouble, seeing the Event by the Convention's Resolutions will quickly appear, and cannot admit of delay; and therefore shall only add, that I am

Yours,

The

The Necessity of Settling

THE CROWN of ENGLAND.

WITHOUT making particular remarks upon what I am about to acquaint the Reader with, which is bare matter of Fact, or any application thereof to our present circumstances, as supposing the design of this Paper obvious to all Mens understandings at the first view; I shall in the first place relate some of those considerations, that induced the whole Parliament in the Twenty eighth year of Queen *Elizabeth's* Reign to petition the Queen, That sentence of Death, which had been given against *Mary* Queen of *Scots*, might be put in Execution. And *Secondly*, I shall represent how the Succession to the Crown of *England* now stands, and into what Families it is likely to come, if care be not taken thereof in this present Convention, 168⁸.

The Parliament in the Twenty eighth of *Elizabeth* was summon'd and assembled upon no other cause or ground, than the timely and strange Discovery of that bloody and merciless Treason plotted by *Babington* and others, for the violent taking away of her Majesty's Life, of which *Mary* Queen of *Scots* had been first by a most just and Honourable Trial fully convicted, and afterwards judicially pronounced to have been in a high nature Guilty. But yet her Majesty not being satisfied with her so just Trial and Attainder, assembled the Parliament on purpose, that so all those former Proceedings, how just soever, might be further committed and referred to the Impartial Examination and Final Judgment of the whole Realm.

*The Case of
Mary Q. of
Scots, and
Proceed-
ings against
her in Par-
liament.*

Both Houses of Parliament unanimously voted the Sentence to be Just, True and Honourable, and petition'd the Queen that Execution might be done; for that they could find no other way to secure her Majesty's safety, and that of these Realms.

The Reasons upon which they grounded their Petition, I shall put down as succinctly as I can, out of Sir *Simon D'Ewe's* Journal of Queen *Elizabeth's* Parliaments, and they are as follow, viz.

For that they had a long time, to their intolerable grief, seen by how manifold, most dangerous and execrable practices, the said Queen of *Scots* had compassed the destruction of her Majesty's Person, thereby not only to bereave them of the sincere and true Religion of Almighty God, bringing them and this Noble Crown back again into the Thralldom of the *Romish* Tyranny, but also utterly to ruin and overthrow the happy State and Commonweal of this most Noble Realm, to banish and destroy the Professors and Profession of the true Religion of *Jesus Christ*, and the antient Nobility of this Land, and to bring this whole State and Commonweal to foreign Subjection, and to utter ruin and confusion; which malicious purposes would never cease to be prosecuted by all possible means, so long as the said Queen's Confederates, her Ministers and Favourers, had their eyes and imaginations fixed upon the said Queen, the only ground of their Treasonable hopes and conceits, and the only Seed-plot of all dangerous and traiterous Devices and Practices against her Majesty's Sacred Person. And for that upon advised and great Consultation they could not find any possible means to provide for her Majesty's Safety, but by the just and speedy Execution of the said Queen, the neglecting whereof might procure the heavy displeasure and punishment of Almighty God, as by sundry severe Examples of his great Justice in that behalf, left us in sacred Scripture, doth appear; and that if the same were not put in Execution, they should thereby (so far as man's reason could reach) be brought into utter despair of the continuance amongst them of the true Religion of Almighty God, and of her Majesty's Life, and of the Safety of all her Subjects, and of the good Estate of this flourishing Commonweal.

*Grounds of
the Pro-
ceedings a-
gainst the
Queen of
Scots.*

For that she (the said Queen of *Scots*) had continually breathed the overthrow and suppression of the Protestant Religion, being poison'd with Popery from her

tender Youth, and at her Age joining in that false term'd *Holy League*, and had been ever since, and was then a professed Enemy of the Truth.

For that she rested wholly upon Popish Hopes to be deliver'd and advanc'd, and was so devoted and doted in that Profession, that she would (as well for the satisfaction of others, as for the feeding her own humour) supplant the Gospel where and whensoever she might: which Evil was so much the greater, and the more to be avoided, for that it slayeth the Soul, and would spread it self not only over *England* and *Scotland*, but also into all parts beyond the Sea, where the Gospel of God is maintain'd; the which cannot but be exceedingly weakned, if defection should be in these two most valiant Kingdoms.

For that if she prevail'd, she would rather take the Subjects of *England* for Slaves than for Children.

For that she had already provided them a Foster-father and a Nurse, the Pope and the King of *Spain*; into whose hands if it should happen them to fall, what could they else look for, but ruin, destruction, and utter extirpation of Goods, Lands, Lives, Honour and all?

For that as she had already, by her poisoned Baits, brought to destruction more Noblemen and their Houses, and a greater multitude of Subjects, during her being here, than she would have done, if she had been in possession of her own Country, and arm'd in the Field against them; so would she be still continually the cause of the like spoil, to the greater loss and peril of this Estate: and therefore this Realm neither could nor might endure her.

For that her Sectaries both wrote and printed, that the Protestants would be at their wits end, world's end, if she should overlive Queen *Elizabeth*: Meaning thereby that the end of the Protestant World was the beginning of their own; and therefore if she, the said Queen of *Scots*, were taken away, their World would be at an end before its beginning.

For that since the sparing of her in the fourteenth year of Queen *Elizabeth's* Reign, Popish Traitors and Recusants had multiplied exceedingly; and if she were now spared again, they would grow both innumerable and invincible also: And therefore Mercy in that case would prove Cruelty against them all, *nam est quædam crudelis misericordia*; and therefore to spare her Blood, would be to spill all theirs.

For that God's Vengeance against *Saul* for sparing the Life of *Agag*, and against *Abab* for sparing the Life of *Benbadad*, was most apparent; for they were both by the just Judgment of God depriv'd of their Kingdoms, for sparing those wicked Princes, whom God had deliver'd into their hands. And those Magistrates were much commended, who put to death those mischievous and wicked Queens, *Jezabel* and *Athalia*.

No Appli-
cation to be
made to
K. J.

How far these Reasons, that then sway'd with the Lords, both Spiritual and Temporal, and all the Commons, to petition the Queen for the Execution of *Mary* Queen of *Scots*, ought in this present Conjunction of Affairs to sway with the People of *England* against any Application to, or coming to any manner of Accommodation with the now withdrawn King, will farther appear, if we take a view how the Succession to the Crown of *England* now stands, and into what Families we are like to fall, if timely remedy be not carefully applied.

I shall say no more of the pretended Prince of *Wales* than this, That if he be an Impostor, who shall secure us against having many more such tricks play'd us? If he be not an Impostor, he ought at least to be deliver'd into Protestant hands, to be educated in that Religion, which whoever comes to be King or Queen of *England* must swear to maintain and defend: If not, every man is at liberty to imagine what the Nation may expect from such a Successor.

State of
the English
Succession.

The next Heir to the *English* Crown, after the two Princesses and the Prince of *Orange*, was the Princess *Henrietta*, King *Charles* the First's youngest Daughter, she was married to the only Brother of the *French* King, by whom she had Issue two Daughters; the Elder of which is married to *Charles* the Second of that name now King of *Spain*, by whom she has yet had no Issue.

The younger Daughter is married to the Duke of *Savoy*; by whom she hath Children.

The next Heir to the Crown of *England* is the Princess *Louisa*, only Daughter of *Charles Lodowick* Prince Palatine, married to the present Duke of *Orleans*, by whom she hath divers Children.

The next Heirs to the Crown of *England*, after the Issue of the present Dutches of *Orleans*, were three *French* Ladies, Daughters of Prince *Edward*, who was a younger Son of the Queen of *Bohemia*; the Eldest of these is married to the Duke d' *Enguien*, eldest Son to the Prince of *Condé*, the other two are dead without Issue.

So that unless the Nation take advantage of this Opportunity, now so miraculously put into their hands by Almighty God, of securing to themselves their Religion and Liberties, and securing the Government in Protestant hands; what can we expect, but to be delivered up in a few Years space to a *Spanish* Inquisition, to *French* Dragooning, to Massacres, and all sorts of Persecution, which the poor Protestants have been harassed with in those Countries, by Princes of an inveterate and hereditary Malice to us and our Religion; from whose Families we shall be forced to admit of Successors?

A WORD to the WISE,

For Settling the Government.

IT is a universal Truth, That no Nation can subsist without some Government; and the Wisdom of this Nation hath framed their Government to consist in a King, the Lords, and the Commons.

In these three Conjunct wholly resides the Power of making and altering Laws for the common Good of the Whole, and is called the *Legislative Power*.

The King alone is entrusted with the due Execution of these Laws, for the Preservation and Protection, and Comfort of the People both in Church and State; and this Trust and Power is called the *Regal Power*.

If then this Nation being Protestant, and under Protestant Laws, have a King who shall declare himself a zealous *Roman* Catholick, and put himself under the Power and Conduct of the Papal Jurisdiction, admitting the Pope's Supremacy, Nuntio, Bishops, Appeals, &c. and to his power endeavour to establish the Popish Religion in the Realm:

Q. 1. Whether such a King hath not thereby made himself incompetent and incapable to govern a Protestant Church, and a Protestant People by their Protestant Laws, and notoriously abdicated or renounced the Government?

2. If a King entrusted with the Regal Power, *ut supra*, shall subvert the Fundamental Laws, dispense with Statutes, destroy Colleges and Corporations, erect high and illegal Courts, invade the Peoples Freeholds, and free Elections to Parliament, put the Ports and Power of the Nation into Enemies hands, protect and promote Traytors, and turn the protective Power of the Nation to the ruin and destruction of the People, their Laws and Religion: Whether by so doing such a King doth not in Fact declare, That he will not rule the Kingdom by its Laws and Constitutions, but by his own absolute Will and Pleasure?

Several
Instances
of the Ar-
bitrary Go-
vernment
of K. J.

3. If a King so entrusted with the Regal Power, *ut supra*, shall and do voluntarily depart the Realm, with the Signals of Government, without any provision for the publick Administration, and so deserting both the People, Place and Power: Whether such a King hath not divested himself of that Trust and Regal Power?

4. If so, and the Lawyers Rule be true (*Quod non est hæres Viventis*) Then whether this Regal Power be descended so long as the King is living?

5. If the Regal Power be fallen, and yet not descended; Whether of necessity it must not fall to its Center or Root from whence it sprung, which is the whole Nation, now consisting in Lords and Commons, as it must have fallen if the King had died without Heir?

6. If the Regality then be not descended, but thus laps'd to the People, and that this most excellent Government is therein become defective; Whether it be not of

necessity that this defect be supplied by a speedy constituting some Person to that Office, Power and Trust, to compleat the Government?

7. If that be so, Then what Person in this present juncture of Affairs, is most proper to be therewith invested? Whether one, who at the Nation's Charge at all times, and upon all occasions, and to the utmost Extremities, hath given undeniable Evidence to the World of his constant Resolution and Endeavours to subvert the Religion, Laws and Liberties of his People; or one, who at his own Charge, and at the peril of his own Honour, Life and Fortune, hath rescued and delivered the Nation from that deplorable Condition and Danger, and whose Wisdom, Virtue, Courage and Conduct, is an Honour to the Age, the Joy of all good Men, and the Fear of Bad, both here and abroad, and who must adorn that People over whom he shall preside?

*The vacant
Throne
must be
filled.*

8. If then the Crown be thus fallen, and must be placed *de novo*, Whether it was ever more necessary than now to settle and limit the Succession thereof (as it hath been often done) by Parliament; in regard there are but three Persons of the Protestant Religion, and of the Royal Blood, *viz.* his Highness, and the two Princesses, not much different in Age, beyond whom the Descendants are many, and all Roman Catholicks?

*Limitations in the
Succession.*

9. Whether then it may not be advisable it be limited to the Prince for Life; the remainder to his Princess, and the Heirs of her Body; the remainder to the Princess *Ann*, and the Heirs of her Body; the remainder to the Prince, and the Heirs of his Body: In default of such Issue, to such Person and Persons as the Lords and Commons then last sitting in Parliament, shall declare and appoint?

10. Whether such Limitation will not avoid all Questions which may at present or hereafter arise touching the Title of the Crown, either near or remote, and settle and preserve the Peace of the Nation for ever?

11. Whether so doing will not prevent any Scruple her Highness may have of accepting the Crown in her Father's Life-time, as did arise in the Son of King *Edward* the Second?

12. Whether thereby the Nation will not in some measure express its Duty and Gratitude to his Highness, who (under God) hath redeemed and delivered it from Popery and Slavery, and raised his own Merit above the level of a Subject?

13. Whether this great Prince, whom God hath advanced for the Conduct and Safety of the Protestant World, will not be the freer to accomplish those glorious Ends?

14. Whether the two Royal Daughters, considering such his Highness's securing their Right and Succession to the Crown of these Realms, against all Popish Endeavours to hinder the same, will not see just cause to promote the Limitations aforesaid?

15. And lastly, Whether the Wisdom and Interest of the Nation doth not oblige all good Men to concur with his Highness, and his most noble Declaration and gracious Designs, to establish their Religion, their Liberties and Properties, beyond all human Power of Violation or Subversion for the time to come?

The

The Causes and Manner of Depo- sing a Popish King in *Swedeland*, Truly Described.

Gustavus Ericson King of *Swedeland*, having settled the Reformed Religion in *Swedeland*, and reign'd thirty eight Years, left his Kingdom to his Son *Erick*, who for his Cruelty and ill Government was depos'd, and his whole Line exhereditated to make way for *John* Duke of *Finland* his younger Brother.

John had a Son call'd *Sigismond*, who being secretly bred up in the Romish Religion by his Mother, who was of the *Sagellonian* Royal Family of *Poland*, was in his Father's time elected King of *Poland*.

The said King *John* had also a younger Brother call'd *Charles* Duke of *Sudermania*, *Nericia*, &c. and a younger Son of his own Name call'd Duke of *Ostrogothia*.

King *John* died in the Year 1592, in the absence of King *Sigismond* his eldest Son. During which, *Charles* Duke of *Sudermania* his Uncle, at the desire of the States, took upon him the Government: but sent to invite his Nephew *Sigismond*, to come and take possession of his Native Kingdom as soon as might be; promising in the mean time to keep all quiet, and intimating, that he hop'd his Majesty when in possession, would maintain all in the true Religion and divine Worship, and preserve the Laws of *Swedeland*.

At the end of the Year he arriv'd in *Swedeland*, having in his company *Francesco* K. Sigismond endeavours to set up Popery in Swedeland. *Malespina* the Pope's Legate, who hindred him long from consenting to any Security, either for Religion or Property; but finding the Coronation would be obstructed without that, he gave way, as having yet (as the Historian says) one starting Hole remaining, which was, That Faith was not to be kept towards Hereticks. In the mean time he himself would have crown'd the King in the Cathedral at *Upsal*, but was oppos'd by the Archbishop of *Upsal*, whose Right it was even if that Kingdom had been Popish.

The Coronation being over, which had been delay'd above a Year; during which time several secret Attempts had been made upon *Charles* Duke of *Sudermania* to make him away; King *Sigismond*, contrary to his Coronation Oath, erected a Popish Church in the Capital City, made a great Man of his Religion Governour of the Castle of *Stockholm*, in which the Records of the Chancery, and the Arms and Ammunition of the Kingdom were kept, and in the Port were the best part of the Royal Navy under command of the Castle.

A certain Jesuit call'd *Adam Steinball*, obtain'd the *Arcentian* Temple, and the Queen's Island, with the *Vastheman* Monastery, which was presently fill'd with Romish Priests.

Sigismond also by his Followers and Attendants continually affronted the Established Religion, and was sending into *Poland* for a Body of Forces able to subdue the Kingdom: Upon which Discontents grew so high, that he hastily withdrew thither himself.

He left *Sweden* in confusion, having only for Form's sake writ to his Uncle *Charles* to assume the Administration jointly with the Senate: But at the same time, leaving others with greater Power both in *Swedeland* and *Finland*, as appear'd when he was gone.

Charles Duke of *Sudermania*, to avoid Discord and Confusion, call'd a Convention at *Sudertopia*, which was open'd with an Oath of Allegiance to King *Sigismond*, and did likewise assert the Kingdom's Right to have the Coronation Oath perform'd: Which having been violated in the tender Point of Religion, they redress'd the Grievance, and suppress'd the exercise of the Romish Religion; banishing all Priests and Preachers of the same, and the antient Incumbents of the *Vastheman* Monastery were restor'd.

Then they desir'd the Duke *Charles* to accept of the Administration for the good of the Kingdom, which he did. Then began a Treaty between *Sigismond* and the Convention,
with

The Administration put into the hand of Charles Duke of Sudermania.

with Duke Charles at the head of it, which was by Sigismond spun out and obstructed with much Artifice: At length the Convention made several Decrees for the Security of Religion and Property, and entered into an Association for the Defence of them, which they desired the King to confirm, and gave six weeks time to all that dissented to submit, on pain of being declared Enemies to the Publick Peace.

They invited him home to return in a peaceable manner, and settle the other Affairs of his Native Kingdom; but instead of that, he invaded them with an Army of eight thousand Horse and Foot, and a hundred Sail, to which several Swedes join'd themselves, whom he had gained with Money.

An Agreement was endeavour'd, and after much intercourse of Negotiation, both Armies being near one another, it was consented to on both sides, that Twelve of the Nobility of each side should meet and decide the whole Controversie. But by the Persuasion of the Jesuits, the Royal Army in the Night, conducted by *Weyerus*, set upon the Ducal Camp; in which onset several thousands were slain: but at last the King and all his Army had been cut off, had they not call'd out for Peace, which the Duke yet hearkened to.

An Agreement followed, in which the King demanded to be supplied with a Navy to go to *Stockholm*, promising there to call an Assembly of the States: but he no sooner had the Shipping, than he sail'd away for *Calmar*; in which place he left a Garison of Foreigners, and then continued his Voyage to *Dantzick*.

K. Sigismond abdicates.

The King being gone, an Assembly of the States met at *Stockholm*, where they declared King *Sigismond* fallen from the Crown and Government, and were so inclin'd to continue the Succession, that they offered to receive his Son Prince *Uladislaus*, provided he might be sent home, bred up a Protestant, and committed to the Guardianship of Duke *Charles*; but *Sigismond* refused it.

Afterwards another Parliament met at *Lincopia*, and there they first did expressly renounce King *Sigismond* and his Government, as also his Laws.

Then they acknowledged Duke *Charles* of *Sudermania* for their lawful King; and after him, settled the Crown upon his Son *Gustavus Adolphus*, and his Heirs Male.

Duke *John* concurred with the Parliament, and renounced his Pretence to the Crown, and was content to come in after the Line of Duke *Charles*.

The Daughter and Sister of *Sigismond* were also rejected.

Charles chosen and crown'd King of Sweden.

Then followed the Coronation of King *Charles*, in the Year 1607. by the Name of *Charles* the Ninth.

These were the Proceedings in *Sweden*, whereupon I shall only make these few short Reflections.

1. That the *Swedes* were desirous to the last degree to preserve the Succession according to one part of the Laws of the Kingdom, provided that might be done without overturning all the rest; they were wise enough to preserve Laws, while Laws preserved the Nation, which is the true end of all Laws, but no longer.

2. That King *Sigismond*, according to the Spirit of his Religion wherever it is grown up to Bigotry, broke thorow his Oaths, and all Rules of Justice and Morality, when they crossed the insatiable Ambition of his Priests.

3. That tho the *Swedes*, when they found that they could not keep their King, his direct Heirs, their Religion and Liberties all together, resolved to part with the former; but were forced to be very cautious, and endeavour to gain time by Treaties to unite themselves against *Sigismond*, who had *Poland* and several Allies to back him; without which Considerations, the Prudence they shewed on this Affair, may assure us, they would not have suffered the Government in so loose a Posture so long as they did.

4. That the *Swedes* knowing that it is impossible on any occasion that all Men should be of the same Mind, wisely ordain'd that the Minor part should submit to the Major, or be declared Enemies to the Publick Peace. And sure this Example will be followed, wherever reasonable and disinterested Men meet on the like Occasions; for sure no body can deny, but that it is better for any Nation, that some Laws should be made and others broken, against the opinion of the Minor part, than that all Laws, Morality, and good Nature, should give place to Passion, Injustice and Cruelty through their obstinacy.

Now may God Almighty open the Eyes of all *Englishmen* to see, and their Hearts to embrace this Truth.

Feb. 1688.

THE

T H E

SUPREMACY DEBATED:

O R,

*The Authority of Parliaments (formerly owned by Romish Clergy)
the Supremest Power.*

IN case the owning of the Authority of a Parliament to be the Supremest Power in a Kingdom, be traitorous or heretical amongst Papists, *Rome's* own Church was the first Founder of this Doctrine, and frequently practised the same, both before and until the Reformation of Religion within this Realm.

For *Henry de Bracton*, one of their famous Lawyers in this Nation, who flourished Anno 1260. in the Reign of King *Henry III.* resolves thus :

The King hath a Superior, to wit, God; also the Law, by which he is made a King; likewise his Court, namely, the Earls and Barons, because they are called Comites, as being the King's Fellows (or Companions): And he who hath a Fellow (or Associate) hath a Master. And therefore if the King shall be without a Bridle, that is, without Law, they ought to impose a Bridle on him, unless they themselves, with the King, shall be without Bridle; and then the Subject shall cry out, and say, O Lord Jesus Christ, do thou bind their Jaws with Bit and Bridle, &c.

*H. Bracton
his words
touching the
Supreme
Power.*

Here is a true Resolution, that the Law, with the Earls and Barons assembled in Parliament, are above the King, and ought to bridle him when he exorbitates from the Law; which this famous Lawyer also seconds in some sort, *lib. 3. cap. 9. fol. 107.*

This Law was so authentick in those Days, and in After-ages, that in their great Council of *Basil*, Anno 1431. when this mighty Question was debated, Whether a Pope were above a General Council, or a Council above him? at last it was resolv'd, such a Council was above the Pope: upon this Reason, among others,

" The Pope is in the Church, as a King in his Kingdom; and for a King to be of more Authority than his Kingdom, it were too absurd: Ergo, Neither ought the Pope to be above the Church. In every well-order'd Kingdom it ought especially to be desired, that the whole Realm should be of more Authority than the King; which if it happen'd contrary, were not to be called a Kingdom, but a Tyranny. And like as oftentimes Kings who do wickedly govern the Commonwealth, and express Cruelty, are deprived of their Kingdoms: even so it is not to be doubted, but that the Bishop of *Rome* may be deposed by the Church; that is to say, by the General Council. At the Beginning (as *Cicero* in his Offices faith) it is certain there was a Time when the People lived without Kings; but afterwards, when Lands and Possessions began to be divided, according to the Custom of every Nation, then were Kings ordained for no other Causes, but only to execute Justice: for when, at the beginning, the common People were oppressed by rich and mighty Men, they ran by and by to some virtuous and good Man, who should defend the Poor from Injury, and ordain Laws whereby the Rich and Poor may dwell together. But when as yet, under the Rule of Kings, the Poor were oftentimes oppressed, Laws were ordained and instituted; the which should judg, neither for Hatred nor Favour, and give like ear to the Poor as Rich: whereby we understand and know, not only the People, but also the King to be subject to the Law; for if we do see a King to contemn and despise the Laws, violently rob and spoil his Subjects, deflower Virgins, ravish Matrons, and do all things licentiously and temerariouly; do not the Nobles of the Kingdom assemble together, deposing him from his Kingdom, set up another in his place, who shall swear to rule and govern uprightly, and be obedient unto the Laws? Verily, as Reason doth persuade, even so doth the Use thereof also teach us. It seemeth also agreeable unto Reason, that the same should be done in the Church, that is in the Council, which is done in every Kingdom. And so it is sufficiently apparent, that the Pope is subject unto the Council.

*The Reason
that was
given at
the Council
of Basil,
for a General
Council
to be above
the Pope,
serveth for
a Parliament
to be above
a King.*

Thus

Thus the Bishop of *Burgen*, Ambassador of *Spain*, the Abbot of *Scotland*, and *Thomas de Carcellis*, a famous Divine, reasoned in this Council, which voted with them.

Here you have a full Resolution of this great Council (which the Papists call a *General One*, being approved of by the *Grecian* and *Roman* Emperors, and most Christian Kings and States, and our King amongst others) That the Kingdom, in Parliament assembled, is above the King, as a General Council is paramount the Pope; which *Aneas Sylvius* (who afterwards became Pope) and *Surius* (one of Rome's Jesuits) do manifest by these five Reasons.

Five Reasons shewing a Parliament to be above a King.

First, Because Kings were first created and instituted by their Kingdoms and People, not their Kingdoms and People by them.

Secondly, Because they were ordained only for Kingdoms and Peoples Service and Welfare, not their Kingdoms and People for them.

Thirdly, Because their Kingdoms and People, as they at first created, so they still limit and confirm their Royal Jurisdiction by Laws, to which they are, and ought to be subject.

Fourthly, Because they oblige them by solemn Oath to rule accordingly, and to be obedient unto the Laws.

Lastly, Because they have Power to depose their Kings, in case they contemn the Laws, and violently rob and spoil their Subjects.

Now it is to be wonder'd why Papists will blame Protestants for defending their Laws and Liberties, this being their own Doctrine concerning the Power, Superiority and Privilege of Parliaments, Peers, and Kingdoms over their Kings; they having least ground, of all others, to tax our Lords and Commons with Usurpation upon the Crown, it having been the antient Course of this Kingdom to examine the Acts of their Kings and Princes, whether they ruled according to the Laws established, or no.

Kings before the Conquest deposed for irregular Government.

For instance-sake, we shall give you a short touch. *Anno 454*. King *Vortigern*, when he had reigned six Years, for his Negligence and evil Government (for which *Wolstan* then Archbishop of *London* told him, He had endanger'd both his Soul and Crown) was deposed from his Crown by his Subjects (the *Britans*) general Consent, imprison'd, and his Son *Vortimer* chosen and crowned King in his stead: After whose untimely Death (being poison'd by *Rovena*) *Vortigern* was again restored by them to the Crown; yet, at last, for his notorious Sins, by the just revenging Hand of God, consumed to Ashes by Fire, kindled by *Angelus* and *Uter*, as Heaven's Ministers to execute its Wrath.

Sigibert King of the *West-Saxons*, setting aside all Laws and Rules of true Piety, wallowing in all sensual Pleasures, using Exactions and Cruelties upon his Subjects, and slaying the Earl of *Cumbra* his faithful Counsellor, for admonishing him friendly of his vicious Life; the Peers and Commons thereupon seeing their State and Lives in danger, and the Laws broken by him, assembled and rose up in Arms against him, and depos'd him; who after died in a Wood whither he fled, being slain by his Swineherd: So *Kenwolfe* was made King in his stead, *Anno 756*.

Osfred King of *Northumberland*, for his evil Government, was expelled by his Subjects, and deprived of all Kingly Authority, in the Year 789.

So *Ethelred* (the Son of *Molo*) his next Successor, being recalled from Exile, and restored to the Crown, of which he was formerly deprived; thereupon murdering divers of his Nobles and Subjects to secure his Crown, did so offend his Subjects thereby, that in the Year 794, they rose up in Arms against him, and slew him at *Cobre*.

Ceolwolfe King of *Mercia*, *Anno 820* (after one Year's Reign) was, for his Misgovernment, expelled by his People, abandoning his Crown and Country for the safety of his Life.

The Crown of *England* hath oftentimes been settled upon those who were not next Heirs to it: witness the electing and crowning of *Edward* who was illegitimate; and putting by *Ethelred* the right Heir after *Edgar*'s decease, *Anno 975*.

The electing and crowing of *Canutus*, a mere Foreigner, in opposition to *Edward* the right Heir to King *Ethelred*, *Anno 1016*.

Also the electing of *Harold* and *Hardiknute*, both elected and crowned Kings successively, without Title, *Edmond* and *Alfred* the right Heirs being dispossessed; the latter imprisoned and tormented to death, *An. 1036*, & *1040*. Yet after *Hardiknute*'s decease, *Edward* (surnamed the Confessor) was chosen King by Consent of Parliament; and the *English* Nobility, upon the death of King *Harold*, enacted, That none of the *Danish* Blood should any more reign over them.

After

After this King's death, *Edgar Etheling*, who had the best Title, was rejected, and *Harold* elected and crown'd King.

So after *William* the Conqueror's decease, *Anno* 1087. *Robert* the elder Brother was put aside, and *William Rufus* elected and crown'd. *Kings after the Conquest not successively succeeding.*

After whose death *Henry I.* his younger Brother (tho not next Heir) was elected King by the Clergy, Nobles and Commons (who refus'd to admit of any King, but with Capitulations and Caveats to their own liking) upon fair Promises for reforming bad and rigorous Laws, Remission of Taxes exacted on the Subjects, and Punishments of the chief Causers of them; and a solemn Oath to frame good Laws and ratify St. *Edward's* Laws: All which he really perform'd.

So after the death of *Richard I.* *John* Earl of *Morton* was elected and crown'd King, his Nephew *Arthur*, the right Heir, disinherited.

He dying, his Son *Henry III.* was elected and crown'd, and *Lewis* (made King in his Father's Life by the Barons) remov'd.

Edward II. their natural King of *England*, was depos'd by Bishops, Peers and Commons in Parliament, *Anno* 1327. *K. Ed. II. deposed.*

King *Richard II.* for sundry Misdemeanours objected against him in Parliament, and for the Breach of his Coronation-Oath, was depos'd by Parliament, and *Henry IV.* plac'd in his stead, *Anno* 1392. *K. Rich. II. deposed.*

Henry VI. Queen *Margaret*, and Prince *Edward* their Son, were by a Parliament put by, and *Edward IV.* made King: After which, King *Henry* was by another Parliament recrown'd and re-establish'd in his Kingdom, and *Edward IV.* declar'd a Traitor: But *Edward* (not long after) taking King *Henry* Prisoner, caus'd him to be murder'd in the Tower. Another Parliament, *Anno* 1472. abrogated King *Henry's* Laws, and re-establish'd King *Edward*. *K. Q. and Pr. of Wales put aside by Parliament.*

All which have Parliaments (before the Reformation in this Kingdom) done, none daring to question their Authority, but complying with them.

A

Debate upon the Q U E R Y,

Whether a King Elected and Declared by the Lords Spiritual and Temporal, and Commons assembled at Westminster 22d of January 1688. coming to and consulting with the said Lords and Commons, doth not make as compleat a Parliament, and Legislative Power and Authority, to all intents and purposes, as if the said King should cause new Summons to be given, and new Elections to be made by Writs?

THAT the Highest and Supreme Court of this Nation (according to its antient Constitution) is the Parliament, I need not now labour to make out; the present business being to find out and discover the substantial and real parts of a Parliament, for thereby shall we be satisfied touching the Question in hand.

A Parliament (as Sir *Edward Coke* in his Jurisdiction of Courts fol. 1. tells us) consists of the King's Majesty (sitting there as in his Politick Capacity) and of the three Estates of the Realm; that is to say, 1st, The Lords Spiritual, as Archbishops and Bishops: 2^{dly}, The Lords Temporal, as Dukes, Marquesses, Earls, Viscounts and Barons: 3^{dly}, The Commons of the Realm, that is, Knights of Shires, Citizens and Burgessees.

As to the Lords both Spiritual and Temporal, Sir *Edward Coke* in the same place tells us, that every one of them being of full age when a Parliament is to be held, ought of right to have a Writ of Summons to come to that Parliament. As to the Commons, he says, they are respectively elected by the Shires or Counties, Cities and Boroughs, by force of the Kings Writs. *Crompton* in his Jurisdiction of Courts fol. 1. says, the High Court of Parliament is the Highest Court in *England*, wherein the King himself sits in person; and comes thither at the beginning of the Parliament, and at the end thereof, and at any other time when it pleaeth him during the Parliament.

To this Court come all the Lords of Parliament, as well Spiritual as Temporal, and are severally summoned thither by the King's Writ.

There is a Writ also sent to every Sheriff of *England* and *Wales* to elect Knights for Parliament, &c. saith that Author.

But the Lords and Commons assembled at *Westminster* 22d of *January* 88, were not summoned thither by the King's Writ; and therefore, as is objected, tho the King afterwards comes to them, yet such King, Lords and Commons cannot be a Parliament.

In answer to which, and to demonstrate whether upon the King's coming to and consulting with them, the King and they make a Parliament, I must premise, that in extraordinary cases, such as of which there is no direct Example, we must take our directions from the Resolutions and Practices in such Cases as come nearest and are most like to them; and by consequences from thence make our Resolutions as may be most agreeable to Reason.

It is generally admitted, that in an Hereditary Kingdom, if the King should die without any Heir Lineal or Collateral, the Crown in that case would devolve, or as it were escheat to the whole People and Nation; and that hereupon the Estates and Representatives of such a Nation may dispose of the Crown to whom they please, or quite alter and change the Government into what form they think fit.

This hath been frequently adjudged and practised, one Instance whereof was in the Emperor *Charles the Gross*, who died without any Heir: the Kingdoms which were under him, did severally chuse themselves Kings; *France* chose *Charles the Simple*; in *Italy* some chose *Berengarius*, and some *Guido*; and the *Germans* chose *Arnolph* Duke of *Bavaria* for their Emperor. *Ferdinand* King of *Portugal* dying without Lawful Heir, the Estates of that Kingdom assembled themselves at *Coimbre*, and elected *John* the late King's Bastard for their King; and in their Decree of Election it is recited, that King *Ferdinand* died without any lawful Issue or Kindred, whereby according to the Law of Nations, it was lawful for them to chuse whom they pleased for their King or Governor.

In like manner, it is where a King doth abandon, forsake or desert his Government, by going or flying out of his Kingdom, without appointing any Guardian to protect and take care of his People in his absence, whereby the Throne is become vacant; in such a case, the Estates of such a People may appoint another King or Governor.

K. J. in leaving the Kingdom without any Government, made it necessary to fill the Throne, and to chuse K. W. and Q. M.

And to come close to our present Case: King *James* the Second, whether out of fear, or for what other reason it is not material, but away he goes or rather flies out of his Kingdom; abandons, forsakes and leaves his People unguarded and undefended, at the Mercy of a Foreign Army, even in the Heart of the Country, without so much as leaving a Guardian or Great Seal behind him; his great Officers and Ministers of State flying some one way and some another. What could then be done but what was then done? viz. Several of the Lords Spiritual and Temporal, many of the Knights, Citizens and Burgesses of a former Parliament, the Aldermen and divers Common Council of our Capital City of *London*, addressed themselves to his Highness the Prince of *Orange*, desired him to take upon him the Administration of Publick Affairs both Civil and Military, for the Preservation of our Religion, Rights, Laws, Liberties and Properties, and of the Peace of the Nation, until the then intended Convention of the three Estates or great Council of the Realm: they also desired his Highness to send Letters subscribed by himself to the Lords Spiritual and Temporal that were Protestants to meet on the said 22d of *January* at *Westminster*, the Summons to Parliament being always omitted to known Popish Lords since the Test Act: and they desired his Highness to send the like Letters to the several Shires, Counties, Universities, Cities, Boroughs and Cinque Ports of the Nation, for electing of such number of Persons to represent them, and to meet on the said 22d of *January*, for the purposes aforesaid, as of right were to be sent

sent to Parliaments, with directions that such Elections should be made by such Persons only as according to the antient Custom and Laws, of right ought to chuse Members for Parliament: And accordingly such Letters were sent, and due notice given, and Elections accordingly were made, and the said Lords Spiritual and Temporal, and the Knights, Citizens and Burgesses so elected met on the said 22d of January; and after mature and deliberate Consideration they resolved, *That the Prince and Princess of Orange should be King and Queen of England, &c. for their natural Lives and Life of the longer Liver of them, and that the sole and full exercise of the Regal Power be in the Prince only, in the Name of both.*

Now after the Prince and Princess of Orange are proclaimed King and Queen of England as aforesaid, and he comes and consults with the three Estates so assembled, I would fain know what is wanting in that Assembly to make them a full and compleat Parliament; or what can be had more than is in this Convention of King, Lords and Commons, if the said King should issue out Writs for calling a new Parliament? Certainly nothing more can be had material to the Essence of a Parliament.

If the substantial parts of a Parliament be, and consist of an Assembly or Convention or Meeting together of the King and the three Estates, as I have shewed that it is out of the best Authorities we have, the difference of the Lords and Commons being call'd by Writ or by Letter is nothing material, since both Writ and Letter are to the same effect; and in some antient Records it is mentioned that Parliaments should be summoned by Letters, particularly in King John's great Charter in the 17th year of his Reign, he promises to summon the Bishops, Abbots, Earls, &c. *per literas nostras*, by our Letters. *Orig. Jud. 17.*

N. B.

The Prince of Orange's not being King at the time of his sending forth his Letters matters not, for he was the Person to whom the Administration of the Government was then committed.

It is evident, that in many Parliaments it was not so material how the King, Lords and Commons came together, as that they were together.

I dare appeal to any man, if the manner of calling together the three Estates of the Realm by the Prince of Orange's Letters was not a much fairer proceeding, considering the State of Affairs as to the calling of them together, than was in several Cases wherein they were never doubted to be a Parliament when joined with a King. I shall instance only a few of many that might be named.

Edward the Second being imprisoned by his Queen, Son and Nobles, they issue forth Writs in the imprisoned King's Name to summon the Lords, and to chuse Knights, Citizens and Burgesses to meet at *Westminster* 16 of Jan. 1325. This one would think was pretty hard, and an absolute force upon the King, by making use of his Name against his Will, so that it could not be said to be his Act; yet the Lords and Commons being met, they deposed Edward the Second, and declared his Son Edward King: and this new King, and the Lords and Commons, so (as I may say) irregularly convened together, made several Acts of Parliament, and have been ever since adjudged a good Parliament to all intents and purposes, without any subsequent Act of Confirmation.

Necessity of calling a Convention, tho without the King's Writ.

In like manner Rich. II. being taken Prisoner by Henry Duke of Lancaster, the Duke issues forth Writs in the King's Name (the King then in Prison) to summon the Lords, and to elect Representatives for the People, to meet at *Westminster* 13 of Sept. 1399. These being met by this irregular Summons, they deposed Richard the Second, and declared the Duke of Lancaster King; and that new King and the Lords and Commons so irregularly convened, being joined together, were and are to this day adjudged, deemed and taken to be a good Parliament to all intents and purposes, without any Act of Confirmation by any subsequent Parliament.

Instanced in R. II.

The Lords and Commons assembled at *Westminster* 25 of April 1660 were convened by Writs in the Name of the Keepers of the Liberty of England, who were Usurpers; yet when King Charles the Second came to them, and they received him as King, he and they together were adjudged a Parliament, and they enacted that they should be so taken, and they made many Laws which immediatly were put in execution; and they continued as a Parliament, until 29 of December following, which was for above eight Months: but indeed most or all those Acts were afterwards confirmed by a subsequent Parliament convened by the King's Writs in May 1661. but that Confirmation, according to many good Judgments, was rather to satisfy some Scrupulosity than out of necessity, most of the said Acts having

In the Parliament of An. 1660.

ving in a great measure had their Effects before the subsequent confirming Parliament began.

If upon the Prince of *Orange's* being declared and proclaimed King, he comes to the Convention of Lords and Commons assembled at *Westminster*: If the same number of Lords be summoned thither that of right ought to be summoned to Parliament; if the same number of Knights, Citizens and Burgesses be duly chosen as ought to be to represent in Parliament, then consequently there are all the Substantial and Essential parts of a Parliament met together: and being so, where's the Necessity, where's the Advantage, where's the Prudence to dissolve these, and thereby give new trouble of new Summons, of new Elections, lose a great deal of time, suffer irrecoverable loss, and damage to *Ireland* and our Allies abroad; and after all, at the next meeting, be but where we now are, as to the Essential parts of a Parliament, there being nothing more to be had at any other time but what we have already?

I can see no material difference as to the making of a Parliament, whether the King come to the Lords and Commons being assembled together and join with them, or the King by his Writs or Letters call them to him: and therefore I conclude, if the Prince of *Orange* after he is declared and proclaimed King doth come to the Lords and Commons now assembled at *Westminster*, and advise with them, in that instant that the King so comes and advises with them, they will be as good a Parliament, as if he should issue out new Writs of Summons, and they should meet again by force thereof.

A LETTER from a French Lawyer to an English Gentleman, UPON The Present REVOLUTION.

No Pens
employ'd in
France to
write a-
gainst the
Revolu-
tion.

I Have already told you, and must tell it you again, that I do not believe that the Court of *France* puts any upon writing against the Proceedings of the Prince of *Orange*, or of the Conventions of *England* and *Scotland* in this important Juncture. I do not deny but that some *Monk*, or nameless Author, transported with blind Zeal, may belch out his Venom upon this miraculous Event, to see all the Designs of *James* the Second prove so unhappily abortive: but I much question whether any of the Ministers of State and Council to *Lewis* the Fourteenth will ever agree to have those Questions discuss'd, which must be handled in order to satisfy the Publick about the Principles and Grounds of that Revolution. Believe me, Sir, they understand their own Interest better, than to be guilty of so great an oversight.

In asserting this, I do not only consider the Circumstances, in which they find themselves at present, and whereof they cannot but easily foresee the Consequences. The Policy of *France* hinder'd that Court from alledging any thing against the death of *Charles* the First, and made them to sollicite an Alliance with *Cromwel*, because it appear'd sutable to their Interests; and upon the same account they will, as soon as handsomly they can, make it their business to find out a way to be reconciled to King *William*, and to rid themselves of the private League they have with *James* the Second. But my business at present is to represent to you this matter, according to the sense of those who are skilful in the Laws of *France*; tho' indeed that Kingdom at present seems wholly chang'd as to its Laws and Government.

Forasmuch as you desire, Sir, that I should give you my Reasons for being of this opinion, because it seems altogether improbable to you that *France* should not employ his most able Pens to defend *James* the Second, and to expose the King and the

the Conventions of *England* and *Scotland*, at this time when he is sending Forces and Money to *Ireland*, to restore *James* the Second, and to overthrow King *William*; I shall endeavour to satisfy you herein, and shall do it the more willingly, because I believe the clearing of this matter may be of use to the Government of *England*, whose Peace and Tranquillity I hope *France* will never be able to disturb. The *French* Writers that would treat of this matter, must bound their Discourse within these six Questions, which contain all that can be said on this occasion.

1st. Whether the Prince of *Orange* could justly assault King *James* the Second, in order to oblige him to reform the Government, according to the Resolves of a Free Parliament, the calling whereof he demanded for that purpose? Six Questions.

2^d. Whether he had reason to alledg the matter of the pretended Prince of *Wales*, as one of the grounds of Complaint he had against *James* the Second, and to demand the Examination and Decision of it in a Free Parliament?

3^d. Whether the Lords, the Gentry and Corporations of the Kingdom, could with Justice join themselves with the Prince of *Orange*, to oblige King *James* the Second to call a Parliament to redress the Disorders he had caus'd in the Government?

4th. Whether King *James* the Second, by his choice of retiring to *France*, rather than to agree to the Proposals made to him, hath not abandon'd the Government, and thereby made the calling of the Convention necessary to restore some Form of Government, and to prevent the mischief of Anarchy?

5th. Whether it was in the power of the Convention to dispose of the Crown in favour of the Prince of *Orange* and of the Princess his Wife, without troubling themselves to recal *James* the Second, in order to treat with him?

6th. Whether the Oaths sworn to *James* the Second do still oblige *English* men, since his abandoning of the Kingdom, and after that the Convention hath rais'd King *William* and Queen *Mary* to the Throne?

The first of these is a Question of Law, and takes the matter of Fact for granted, viz. That King *James* had overturn'd the Government; about which we are to refer our selves to matters publickly known to all the Nation, yea to all *Europe*. Now, this suppos'd, no *French* Lawyer can deny but that the Prince of *Orange*, Husband of the first Princess of the Blood, and presumptive Heiress of the Crown, had right to oppose himself against the overturning of the Government, and the abrogation of the Fundamental Laws thereof. Had the Prince of *Orange* had no other ground for his interposing in the Affairs of *England*, but as he was a Neighbour Prince, and consequently interested in the Liberty of that Government, which he could not see destroy'd without hazarding his own ruin, this would have been sufficient to justify his Enterprize. Nothing but this could justify the Enterprize of *Henry II.* King of *France*, when he attack'd the Emperor *Charles V.* who invaded the Rights of the Princes of the Empire; which Undertaking of his gain'd him the Title of *Protector of the German Liberty*. But the Prince of *Orange* had a far better ground than so, for his Character of Prince of the Blood, and Husband to the presumptive Heiress of the Crown, gave him a natural Right and Authority to undertake what he did. This is a Truth so universally acknowledged and exemplified in the Kingdom of *France*, that we can give as many Instances of it, as the Kings of *France* have made attempts against the Liberty of the States. *Lewis XIV.* can confirm this more than any of his Predecessors; his Uncle *Gaston*, Duke of *Orleans*, and the Princes of the Blood having leagued themselves, and taken up Arms to oppose themselves against the Tyranny which the Queen Regent and Cardinal *Mazarine* did endeavour to introduce during the King's Minority. The Princes of *France* had done as much before in the Reign of *Lewis XI.* which occasion'd the War for the Common Good, as it was call'd, being undertaken by the Princes and almost all the Estates of the Land; not to speak now of what pass'd in the time of *Charles IX.* and *Henry III.* and afterward under *Lewis XIII.* upon occasion of the Marquis d'*Ancre* and the Constable *Luines*.

Ans. 1.

P. of O.
had a right
to oppose
K. J.

Instances in
France.

The second Question may more easily be decided than the first, which yet is so clear and incontestable, as we have just now seen. Tho the Civil Law be not an absolute Rule for all *France*, yet it is of so great Authority, that Questions are ordinarily determin'd by it, when there is no customary Right that derogates from it. Now what can a *French* Lawyer say in this case of the pretended Prince of *Wales*, when he sees that *James II.* hath not observ'd any of those cautionary Forms, with respect to the Government or his own Family, which the Law on that occasion prescribes? We find this Law in the *Digest. lib. 25. tit. 4.* which treats concerning the

Ans. 2.

Setting up
a pretend-
ed P. of
Wales.

Doubtful-
ness of the
Birth of the
P. of W.

the Forms, which a Woman big with Child, or that pretends to be so, is to observe at her Delivery, when her Child is to deprive the presumptive Heirs of their Succession. We need only to compare these Forms and Precautions with the Account we have of the Delivery of the Queen of *England*, to justify the Exception of the Prince of *Orange* against that pretended Delivery. As soon as a *French* Lawyer reflects on the great care the Kings of *France* have always taken on this occasion (whose exactness herein it seems *James II.* had no mind at all to imitate) he will be forc'd to be silent. *Charles VII.* complains, that the *Dauphin* (who was afterwards *Lewis XI.*) acquaints him that his Wife was brought to bed, without having inform'd him of her being with Child, because without that advice he could not send the Princes of the Blood to assist at the Delivery of the *Dauphiness*, who was then out of the Kingdom with her Husband, notwithstanding that that Prince then born could not prejudice the Right of any of the Princes, as having no right to the Crown till after his Father's death, who was then only *Dauphin* of *France*: Whereas *James II.* took no care that either of his Daughters, or any deputed by them, should be present at his Queen's Delivery, when the Child to be born was no less than a Prince of *Wales*, which directly excluded them from the Succession. Certainly if the Action of the Prince of *Orange* against this strange way of proceeding be not just, I do not know whether ever any were so; and his Moderation was no less than his Justice, in referring this great Interest of his to the discussion of the Parliament, who were the only competent Judges of this Controversy. We have here the case of a Sovereign Prince, who is injur'd in his Succession to three Kingdoms, and who notwithstanding refers the whole deciding of that Question, which he might have determin'd by the right of Arms, to a Parliament, to whose Judgment he submits himself, as having only taken up Arms to oblige the King to own that Tribunal, and to let his Witnesses be examined, and the Question be decided by them.

It is hard to guess who advis'd *James* the Second, a little before the Landing of the Prince of *Orange*, to make his Witnesses declare what they knew concerning the Queen's being brought to bed. Thus much is certain, that it was not done at the request of the Prince of *Orange*, nor at his demand, and consequently that Information stands for nothing in Law; and it is as certain that *James* the Second's Council were no competent Judges to take this Information, or to hear the Witnesses in a matter of so great importance, which belong'd only to the Representatives of the State, who alone have right to examine matters about the point of Succession, upon any emergent Difficulties. But it is yet more difficult to comprehend how *James II.* finding himself oblig'd to quit the Government, because he was averse to consent to any Proposals made by the Prince of *Orange* and the Government which was then join'd with him, could by any Rules of Prudence transport out of the Kingdom the pretended Prince of *Wales*, his Wife, and all the chief Witnesses that had depos'd in that case; for what has he done else by this Proceeding, but to confirm the strong Suspicions of foul play in the case, by making it appear, That he would not have that matter pry'd into, which was of so great importance to the State? One would think he might have trusted the Prince of *Wales* with the Bishops, or some of the Lords, in whom he had the greatest Confidence, because of their try'd Integrity; he knew well enough that a Parliament of *England*, consisting of near seven hundred Heads, are not likely to suffer themselves to be carried away by a blind Passion, to trample under their feet all the Laws of Justice and Equity in the face of the whole world. To speak the truth, tho it had been a thing generally own'd, That the Prince of *Wales* was not Supposititious; yet it is evident, the late King did all he well could be suppos'd to do, to persuade the Parliament that he endeavour'd to conceal from publick knowledg the Examination of a matter, which could not but cover him with Shame and Confusion. To say, that he could not leave the Prince of *Wales*, nor the Witnesses of his Birth in *England*, considering the Condition to which he was then reduc'd, is to say nothing that can satisfy. But pray, let any man tell me, how the Parliament could have acted otherwise than they have done. *James II.* knew by the common Vogue, that he was accus'd of having a design to transport the Crown from the Lawful Heiress to a Supposititious Child; the matter being such as could not be decided but by a Parliament, the calling of one is demanded of him from all Parts with great earnestness. The Prince of *Orange* takes up Arms to second this demand, as well for the Discussion of this Point, as for the Re-establishment of the Laws; and *James II.*

II. not only refuseth to call a Parliament with the highest Obstinacy, but also leaves the Kingdom, takes the Child along with him, and all the chief Witnesses, whose Presence was necessary in this case, except we should suppose, that it will please God to send an Angel to decide the Controversy by his own personal Evidence. The Parliament had no reason but to consider this Proceeding of *James II.* as a Proceeding most contrary to Law and Equity, and to take measures accordingly, to prevent the Ruin of the State, which his Flight had left without a Form of Government; for to have waited for his return at the head of an Army to have call'd a Parliament, by whom this Question might have been lawfully determin'd, would have been the highest degree of folly, and no better than stark madness.

As for the third Question, I can assure you, That a *French Lawyer* would not find the least Difficulty to resolve it. 'Tis about Fourteen years since, that the Charter granted by King *John* was publish'd in *France*, which is so express as to this Point, that I do not see what can be objected against it.

The said Charter is with good reason lookt upon in *England* as a Fundamental Law. King *John* published the said Charter in the year 1215, after that the Barons had declared War against him, and had obliged him by force to redress the Grievances of the Nation. The beginning of it is express'd in terms to this purpose; 'That the said Charter was made with the Advice of the

'Lords Spiritual and Temporal, and of *Pandolphus* Nuncio to Pope *Innocent III.* 'That forasmuch as the Disorders and Abuses crept into the Government were without number, the King consented to rectify the same at the pleasure of the Twenty five Barons, chosen by the Government, and invested with Power, in case the King should continue to maintain the said Disorders, to compel him by force to redress them, by seizing his Castles, Lands and Revenue, and by pursuing those to utter destruction, that should take up Arms for him; the King excepting none from that Penalty, save only his own Person, the Queen, and his Children. But what is more yet, he enjoins all his Subjects, under the severest Penalties, to swear to be obedient to the Orders of the said Barons without reserve. We are to take special notice of two things in this Charter; the one is, That the King by this Declaration owns, That the Lords and the Government had just cause to take up Arms against him: The other is, That his consenting that the matter should be referred to a certain number of Barons, who had power to compel him by force of Arms to do justice, was not any mitigation in favour of the King, to render his Condition more tolerable, but rather a severe Penalty denounced against himself, in case he should fail to perform the Conditions of the said Treaty. And lest any one should think that these Concessions of King *John* were strange and unusual, the War in *France*, for the Common Good, was terminated with a like Treaty. King *Lewis XI.* chusing rather to follow his disordinate Fancy, than the wise Laws of the Government, and placing his Greatness and Glory in oppressing of his Subjects; this King, of whom some have said, That he set free the Kings of *France* from their state of Pupillage and Minority; but of whom *Mezeray* more truly saith, That he put them out of their Wits and Reason: This King, I say, having omitted nothing that was proper to overturn the Laws and Government, forced the Princes and great Lords to join and make War against him; which they did with so much Success, that at last they obliged him to follow the Model of King *John*. He was fain to consent, That thirty six Persons should be named of the most considerable of the Kingdom, twelve of the Nobility, twelve of the Clergy, and twelve of the Learned in the Law, to consider of ways to redress the Grievances of the People, and to remedy the Disorders of the Government, and to submit himself to their Decision. This is a thing recorded by all the Annalists of *France*, both Antient and Modern, *Phil. de Commin.* Lib. 1. c. 2. and happened about two hundred years ago. But it is well known, that the Princes of *France* have several times since that followed the same Example, both under the Reign of *Lewis the XIIIth* and *Lewis the XIVth*, as taking it to be their Right to preserve the Laws and Government, when they saw, that the taking away of the States General had deprived them of the means of seeking redress by way of Remonstrance.

Ans. 3.

K. John's
Charter
justifies the
Revolution.

Lewis XI.
of France
Oppressor of
the Peoples
Liberties.

Answ. 4.

K. J. by
Desertion
and going
into France
abandon'd
the Go-
vernment.

Sovereign-
ty in the
Body of the
Estates as-
serted by
French
Lawyers.

I pass on to the fourth Question, viz. Whether *James II.* in chusing rather to retire to *France*, than to comply with the Proposals offer'd to him, hath abandoned the Crown, and thereby made the Convention of the Deputies of the States necessary, to prevent the Kingdom from being left without any Form of Government at all? This Question contains two others; the first is, Whether King *James II.* by retiring out of the Kingdom, did abandon the Crown? The other, Whether his going away, hath rendred the Convention of the Estates necessary and lawful, to provide for the Government? The first is very easily decided, according to the Laws of *France*; 'tis taken for granted in *France*, as every where else, that when a King maintaining his unjust Proceedings by force of Arms to the last, is forced by the Princes and Great Men of the Nation, who undertake the defence of the Government, to retire out of the Kingdom, that then the Persons that have been forced to take up Arms in defence of the Government, may restore the State to the happy Condition of a Government delivered from Tyranny. The History of *France* furnisheth us with several Instances of this nature. When *Childeric* was chased out of the Kingdom by the *Franks* because of his Crimes, and thereupon retired to the King of *Burgundy*; the Estates being assembled, chose another King. We have many like Passages in the History of *France*; and *Lewis* the XIth was so wise as to prevent this Inconvenience which threatned him, when instead of leaving *France*, as he had at first resolved, and retiring to the Court of an *Italian* Prince his Friend, because he had no stomach to redress the Abuses he had committed; he not only staid in the Kingdom, but consented also, that the redressing of Grievances should be referred to the Judgment of Thirty six chief Persons of the Kingdom, as we find it recorded in all Historians. As for the other Question, Whether upon King *James II.* his abandoning of the Government, the Convention was both necessary and lawful? The same would be with no less ease resolved by the *French* Lawyers. They hold it for a constant truth, that the Sovereign Power is in the Body of the Estates; whence it follows, that in the Case here before us, their assembling must be both necessary and lawful. Neither do they only ground this their Judgment upon divers Examples; as upon the Assembly of Estates, when the Kings, *John*, *St. Lewis* and *Francis I.* were Prisoners; but above all, upon the Nature of the Government. They set down these Maxims, First, That the State of *France* as well as that of *England*, is a Government mixt of Monarchy, Aristocracy and Democracy, where every one of these has its Rights, and the Power of preserving them. Secondly, That when Princes become incorrigible, the Estates are the Curb, whereby they are to be brought to Reason. Thirdly, That the Princes, who are the Members of the said Estates, may oppose themselves against any such Enterprizes of their Kings. Fourthly, That the Estates, being the Seat of Sovereign Power, whereof the Kings are only the Keepers or Guardians, they may depose those Kings that abuse it for the overthrow of the Kingdom. Fifthly, That therefore the Estates are both necessary and lawful on such occasions, tho it be the customary Right of the King to call them. This may be seen in all the Writings of the *French* Lawyers, who have writ concerning the State of *France*, and who have examined the Rights of the King, and of the Estates General with any Knowledge or Reputation. I know that of late times, and since the Cessation of the Estates, none have been so bold to treat of this Subject, which could not be done without danger under the absolute Government they have of late introduced. But the Writings of *French* Lawyers that lived in the foregoing Age, concerning this matter, represent this Case as I have said: and it is difficult, even at this time, to oppose these their Sentiments, without being hiss'd at for so doing, tho at present there be no Liberty to dispute the practice of contrary Maxims. Thus much is certain, That if any *French* Lawyer should undertake to defend the Maxims of Absolute Monarchy in *France*, he would be soon put to silence, by representing to him, that the last Age hath supposed and defended the contrary, as Maxims of the most constant Truth, and which cannot be call'd in question by any who have read the History of *France* with the least Attention. In a word, nothing can be objected to the *English*, but that they have had more courage to defend their Rights than the *French*; and that tho the Government of *England* be established on the same Laws, they have not been endowed with so much Patience or Stupidity, to suffer it to degenerate into an Arbitrary and Unbounded Government, as the *French* have been.

Answ. 5.

To the fifth Question, I answer, that *France* maintains as a Maxim of undoubted Truth, that the Crown cannot be put into the Hands of a Prince who

is

is not of the Religion of the State. The Resistance they made against Henry IV. until he had embraced the Popish Religion, is an evident Proof hereof. The Deposition of Henry III. by those of the League, was grounded on this Principle, that he favoured the Hereticks. M. Savil being then at Paris, put the French Courtiers to a nonplus, in demanding of them, about the Exclusion of the Duke of York, which made a great noise amongst them, Whether they would admit the Dauphin to be King, in case he should turn Hugonot? By this Question he put a stop to the Reproaches they cast upon the House of Commons on that account. But at present, when James II. has quit the Throne by his flight, the Question is still more easy to be resolved. The Convention having learnt Wisdom to their cost, by a more than four years Experience, will never be blamed by those who understand the Laws of France, for having laid aside a Prince incapable by the Laws to govern a Protestant State, and who could not perform his Coronation Oath without wounding his Erroneous Conscience. If after all this, they made choice of the Prince of Orange, Who sees not that they therein acted according to the Rules of Justice and Gratitude? They owed their Liberty to the Prince, and the Prince to the Princess; and were not they then obliged to confer the Crown upon those, to whom they were beholden for the Possession of their Rights and Liberties?

Mr. Savil
silences the
French
Courtiers.

The Decision of the sixth Question depends on the Notion they have in France, about the nature of the Oaths the King swears to his People at his Coronation; they are the Foundation of those the People afterwards swear to the King, and suppose that the King will perform his Promises and Oaths made to them. Thus it cannot be denied that they are Conditional, and consequently that they are made void, *ipso facto*, by the breach of the Promises the Kings have made to their People: *Fidem non servante Domino, fides impune non servatur*, saith Alciat in Resp. 167. n. 10. When the King does not keep his Oath, neither are the Subjects bound to keep theirs. We find that the Parliament, which deposed Richard the Second, objected to him his Perjury as to several parts of the Oath he had sworn at his Coronation. And we meet with the same in the History of France, in the Acts of Parliament which deposed Lewis surnamed Pious. Judg after all this, whether Subjects can be oblig'd by an Oath which they do not swear to their Kings, till after the Kings have tied themselves by Oath to their Subjects to perform the Conditions imposed upon them: Surely if any one thinks himself by these Oaths for ever obliged to a Prince, so that nothing can free him from that Engagement, he is apparently in an Error. The Oaths of a People to their Prince are made void by a Conquest made of the State from the Prince that was sworn to. And it is a Conquest properly and strictly so call'd, which carries along with it the loss of the Rights of the Prince and of his Subjects who had assisted him against the Conqueror. But that has the more place where the People are obliged to join, and do effectually join with a Prince, who is so far from invading their Rights, that he undertakes the Re-establishment and Preservation of them. For in that case he that dispossesses a Prince who is become an Enemy to the State and Commonwealth, enters upon all the legal Rights of that Prince, and has a Right to claim from the People the Oath that is due from the lawful Prince, which does disengage the Subjects from their former Oath. Now it is evident that if the Prince of Orange has not conquer'd the State, because the State did actually join and concur with him in his Undertaking, he has at least conquer'd all the Rights which James the Second had upon the State, he being forc'd to quit the Government, after he had chose rather to employ his Arms against the Prince of Orange, than to put an end to all Questions, by calling a Free Parliament, to which the Prince of Orange offer'd to submit himself.

Ans. 6.

Oaths to
the K. con-
ditional.

How Oaths
to Princes
are made
void.

These, Sir, in short are the Reasons that make me believe, that French Writers will observe a profound Silence about the present Concerns of James the Second. I know well enough that their Spite and Rage may make them imploy some false Colours to expose the Proceedings of England on this occasion. But after all, Sir, I am persuaded the Court knows its Interest too well to suffer these matters to be publicly discuss'd and examin'd. Whatever Design Cardinal Richelieu had (who was the Author of all the Troubles under Charles the First) in inspiring the zealous Royalists of England with Opinions that might make way for Popery in these Kingdoms, without meeting with any Opposition in this Intrigue; believe me, neither he nor his Successors have ever been able to inspire the same

Maxims into the Divines or Lawyers of *France*: For tho they be not in a condition at present openly to oppose them, as groaning under the enormous Power of *Lewis* the Fourteenth, whom his base Flatterers have deified; yet no sooner shall they see this his Power shaking, but they will take Courage again, and fully display the Power and Authority of the Estates, and make it appear, if ever a Prince of *Orange* comes to deliver them from their Oppressor, that they have less regard for *Lewis* the Fourteenth, than the Conventions of *England* and *Scotland* have had for *James* the Second. I conclude with assuring you, that I am,

S I R, Your most humble, &c.

May 15. 1689.

A. L.

R E F L E C T I O N S

U P O N T H E

Late Great Revolution.

Written by a Lay-Hand in the Country for the Satisfaction of some Neighbours.

PROvidence having placed me in so low a Sphere, that I have had nothing to do in the great Revolutions of which our Land has lately been the Scene; I must not pretend to judg of what has past: But altho I have not been an Actor, I cannot say I have been altogether an unconcern'd Spectator of the great Changes these last three Months have produced; for what I did not know in the Cause, I thought I might yet lawfully admire in the Effects; which truly have been so miraculous, that 'tis as much the World's Wonder as ours. So that if ever People had cause to apply the words of the *Psalmist*, *Psal. 118. ver. 23.* we certainly may say, *This is the Lord's doing*, and I'm sure it ought to be *marvellous in our Eyes*. But alas! as if we meant to vie Miracles, and to shew that we can be as obstinate as God can be gracious, we are so far from admiring, that we will neither own nor accept the wonderful Deliverance that God has wrought for us. A sign, I fear, that we are unworthy of so great a Mercy, while we can be so insensible of, and so unthankful for it: And like the Children of *Israel* in the Wilderness, instead of going on to possess that *Canaan* God seems to have design'd for us, we are for making a Captain to return again into *Egypt*, and to put our Necks into that Yoke which neither we nor our Fathers were able to bear. And I wish our present Murmurings and Discontents do not provoke God to deal with us as he did with the *Israelites*, and swear that we shall not enter into, nor enjoy that Rest we so despise.

No Authority from Scripture for Passive Obedience.

But if Passive Obedience be so necessary a Duty, and we are indispensably obliged to obey our Kings whatsoever they be; the Children of *Israel* had certainly a great deal of reason to quarrel with *Moses* and *Aaron*, for making them Rebels, depriving them of the Honour of suffering for a good Cause, and making them do so many ill things: For certainly the Children of *Israel* were as much, and as truly the Subjects of *Pharaoh*, as any body can be to any of our Modern Kings; for they were all born in his Land, govern'd by his Laws, and he and his Ancestors had reigned over them by a long Prescription of four hundred Years; and if this is not enough to give a King a Title, I doubt most of our Monarchs may despair of shewing a better. But to that I know it will be answer'd, That 'twas God Almighty's own doings; and that as *Abraham* might lawfully sacrifice his Son when God

God commanded it, so they might lawfully rebel when they had God's Authority for it; for God being the great King, may dispose of Kingdoms as he pleases. To which I shall make no other return, but humbly offer this Query (which I should be glad to see resolved) Whether God can, or ever did command an unlawful thing? For his Proposal to *Abraham* was only for trial; and you see, he would not permit him to kill his Son when it came to it: But the Children of *Israel* went thro with their Design; therefore if in it self it had been so great a Sin, he would not have commanded, much less assisted the *Israelites* in the execution of it. To see Men then murmur against God, and quarrel with Providence, only because it would not suffer them to be oppress'd as the *Israelites* were, nay destroy'd and ruin'd, seems so unaccountable a ground for dissatisfaction, that it deserves to be examined into.

And I must own, that I have so much both of Esteem and Reverence for some of our Malecontents, that I cannot think them so weak, as to have a *Platonick* love of Suffering; or so wilful, as to oppose the Truth if they are convinced of it: therefore suppose they have (at least as it seems to them) some good Reason, which makes them thus not only deny, but resist their own Interest. And here Conscience and Zeal both stand up for them (the two best Champions in the World when in the right, but the most unruly and dangerous when in the wrong) and Conscience telling them they cannot comply, Zeal tells them they must oppose and declare against such Proceedings. But yet for all this, how hard a Task soever it seems, I should not fear encountering, nay overcoming these two, had I not two greater Difficulties to contest with, that is, Prepossession and Prejudice. For we daily see by sad Experience, that People may be as fully persuaded of, and as zealous for an Error, as 'tis possible to be for Truth it self. For which I need go no further for an Instance than *St. Paul*, who says, *Acts* 26. 9. *I verily thought with myself, that I ought to do many things contrary to the Name of Jesus of Nazareth.* Of which he gives us an account in the two following Verses; being (as he himself terms it) *exceedingly mad against them.* But that we might not be ignorant what we are to ascribe this extravagant Zeal and extraordinary Fierceness to, he tells us in the preceding Verses of this 26th Chapter, and also in the 3d Verse of the 22d, *That from his Youth he had been brought up in Jerusalem at the feet of Gamaliel, taught according to the perfect manner of the Law of the Fathers, and was zealous towards God, as ye all are this day.* So that 'tis very apparent, it was his Education that inspired him with his Zeal: For the *Pharisees* were not only the strictest, but the most dogmatical Sect among the *Jews*; and while they thought they, and only they, had the Law on their sides, they not only despised, but hated all that were not of their Opinion; and thought it not enough to instil their own Doctrines and Principles into their Disciples, unless at the same time they imprest upon them an absolute Horror and Detestation of all others. So that here was Prepossession and Prejudice to the height; and we may see the Effects of it in *St. Paul*, for it made him proof against all the Miracles of our Saviour and his Apostles (for living in *Jerusalem*, it cannot be supposed but that he must both see and hear of them) so that nothing but a Call from Heaven it self could convince him. Yet I say not this, that I intend to apply it particularly to any of our Times, but only to shew in general the Unhappiness of such a grounded Prepossession and Prejudice, and the difficulty of treating with it, because Truth it self will appear unwelcome to such, if it contradict their received and admired Opinions.

Zeal for Error as well as for Truth happens often.

Power of Prejudice.

But after all this it must be allow'd, that never any Prejudice was taken up on so justifiable grounds, as that our Churchmen may have to the very appearance of Rebellion; for living in the late War, and seeing the dismal Effects of it by the sad ruin it had wrought both in Church and State, they might reasonably think they could not run too far from such pernicious Principles. But alas! there is an extreme on the other hand, which perhaps may be as dangerous, and therefore ought as carefully to be avoided. For if, like some of our over-zealous Reformers in the Church, who having both seen and detested the Errors and Superstitions of the Church of *Rome*, thought they were to hold nothing in common with them; if, I say, like these, our State-Reformers should fling away and detest all that was done in *Forty one*, as the one would soon run us out of our Religion as *Christians*, so the other would out of our Birth-right and Privileges as *English Men*. But as I hope no body will reject their Creed because believed by the *Papists*; so I think it would be full as unreasonable for a People to despise and destroy their own

Rights and Liberties, because they were asserted by a Company of Rebels so long ago.

But all this while I have been only skirmishing with some of their Out-Guards, their main Body and Strength too remains yet entire: which I shall own invincible, if they can make out these two great Points. *First*, That Monarchy is *Jure Divino*, properly so called; and, *secondly*, That if the King command us any thing contrary to our Laws, we are yet in Conscience obliged to obey, and yield Obedience either Active or Passive. These are indeed the Foundation Stones on which the great Doctrines of Non-Resistance and Passive Obedience are built; and if the Foundation prove firm and true, I cannot, no I dare not deny the Superstructure, but must yield my self their Convert; being, I bless God, more desirous to be overcome by Truth, than to conquer without it. And coming with this Resolution, I hope I may, for Argument sake, be allow'd to say what I can for the Cause I have undertaken. To which purpose I shall desire leave to consider these two things; *First*, From whence Kings in general do derive their Authority (which answers to the first Point of Monarchy being *Jure Divino*) and, *secondly*, What is that particular Authority that is vested in our Kings (from which I hope to clear the second Point).

I.

Whether
Monarchy
be *Jure
Divino*.

But first of the First: And since *Jure Divino* is the thing pretended to, I think I cannot take a better Method, than to let God's own Word and Law decide the Question. For I take it to be the best as well as the last Judg in such Points; and therefore I shall confine my self to the Sacred Scripture, and bring no Proofs nor Arguments on this first Head but what that affords me. And if I can from thence prove these three things: *First*, That Monarchy was not at first instituted by God Almighty: *Secondly*, That after Monarchy was permitted and established among the Jews, the People did make and set up their Kings; and, *Thirdly*, That those Kings who were named and appointed by God himself had not an absolute Power, but were under Conditions and Covenants: If, I say, I can make out these three things, I shall then suppose I have done all that can be expected from me, and that I have sufficiently confuted the *Jure Divino* Title.

I.

And now when I come to treat of my *first* Point, 'tis possible some may expect that I should by History trace Monarchy back to its original Source: but our present Dispute being, Whether it be *Jure Divino* or no, I thought (as I said before) that God's Word would be our best Guide; and therefore shall confine my self to the Sacred Writ, altho it must be own'd, that if there be any Intimations at all about the Matter we are now in quest of, they are for several Centuries so dark and obscure, that Negative Inferences are the best Proofs we can produce. But if our Adversaries can bring a piece of Canonical Scripture that is Affirmative on their side, I shall not only be very glad to see it, but also very willing to submit to it; for I am sure it was never my design to contest either God's Will, or God's Word: and the latter being the surest way to come to the knowledg of the former (it being given us for that very end) I hope it will not be unreasonable in me to expect that the Claims to *Jure Divino* should be made out by exprefs Scripture, for the Grant ought to be very clear that conveys such an inestimable Privilege.

Nature of
*Jure Di-
vino* ex-
plain'd.

Now I conceive a thing may become *Jure Divino* two ways; *First*, by being immediately instituted by God Almighty; and, *secondly*, by being positively commanded: of which the Church, both Jew and Christian, can afford us Instances; among the which I should reckon the Passover with the Jews, and the Lord's Supper with the Christians, they both of them being not only immediately instituted, but also their Observation positively commanded by God himself. And altho I cannot say I rank Kings in that Classis, yet I do own an Order of Men to be *Jure Divino*, and that is the Bishops; for that of St. John 17. 18. *As thou hast sent me into the World, even so send I them into the World*, seems to me so powerful, and so full a Commission, that I dare not reject it. And when our Monarchical Men can shew me a Text of Scripture, wherein our Saviour does as fully make over his Regal Authority to Kings, as he does there his Prophetical to the Apostles, I shall then certainly pay them the same deference. And because Examples do illustrate things much more than simple Positions, I shall now suppose that some of us of the Church of England went into the Indies in the nature of Apostles, to preach and plant Christianity among them; and succeeding in the Design, I should then ask, Whether it were lawful to set up what sort of Church-Government we pleas'd among

among these new Converts, or whether they did not think we were obliged to establish Episcopacy? But on the other side, supposing that we went as Conquerors, and had made an absolute Conquest of a very large Territory, might we not then lawfully set up what kind of Civil Government we pleas'd, and such as we thought might be most beneficial and agreeable to our new Subjects? Or are we in Conscience indispensably obliged to set up Monarchy wherever we have the Command, altho it should happen to be extremely disadvantageous to the State in its present Circumstances? And the Answer that every body shall in such a case be able to give themselves, will I suppose sufficiently clear the Point of *Jure Divino*. But for all this, the other side are very free to make out their Title to it; and if they can prove that it was originally instituted by God Almighty, or that we are positively commanded to obey Kings exclusively to all other sorts of Government, (for if that, and only that, be *Jure Divino*, I conceive it would then be a Sin to submit to any other;) If, I say, they can make out both or either of these from Scripture, I yield; but till that is done, it may not be amiss to see what account the Historical part of the Bible gives us of the beginning of Monarchy. And here it must on all hands be owned, that for the first sixteen hundred Years, that is, the whole space from the Creation to the Deluge, there is not any mention or least intimation of such a thing as a King; and yet according to the Calculation of some of the Learned, the World was then as full of People, and consequently there was as much need of Government then as now. But what want there was of it I know not; but that there was no such thing as Monarchy then in the World, we have a great deal of reason to believe: For this I can be very sure of, that in the Holy Line, that Branch of the Posterity of *Noah* wherein the Church was to be preserved, and from whence the *Messiah* was to spring, there was no King for near fifteen hundred Years after the Flood; and yet one would have guess'd, that that People that were so particularly favour'd of God, that they had the Enclosure of his other Laws and Ordinances (as the Psalmist tells us, *Psal. 147. 19, 20. He sheweth his Word unto Jacob, his Statutes and Ordinances unto Israel; He hath not dealt so with any Nation, neither have the Heathen knowledg of his Laws,*) should not have been excluded for so many hundred Years from this *Jure Divino* Ordinance, had it originally been instituted by God. But that it was not commanded to them, is, I think, pretty evident, not only from their being so long without it, but also from the very severe and bitter Reproofs they met with from *Samuel* when they desire a King. And after that God had comply'd with the People, in setting a King over them, he was yet at the expence of a Miracle, as you may find it *1 Sam. 12. 18.* to convince the People of their Sin and Folly in asking one; who in the 19th Verse confess, *We have added to all our Sins this Evil, in asking a King*; which methinks is no very good Argument of its being *Jure Divino*. It's answer'd I know to this, That God was their King; which doth not cross, but confirm what I say; for he who is the King of all the Earth, did not think fit to govern them by Kings.

The Israelites sinn'd in desiring a King.

But how long soever it was before Monarchy was set up in *Israel*, it must be own'd that it had a much earlier admittance among other nations; for *Nimrod*, who was the first King, at least the first we find mention'd in Holy Writ, did certainly begin his Kingdom in the second Century after the Flood. But truly the Character that is given of the Man, would not make us very much in love with the Order to which he gave both Beginning and Name; for that his Kingdom was founded by Force and Violence is very clearly intimated, and that he got the name of the great Hunter, by the driving Men (not Beasts) out of their Possessions: for poor *Ashur*, the Son of *Sem*, who had fixt himself in the Land of *Shinar*, was forced to fly for it and to get him over *Tigris*, where indeed he laid the Foundation of another great Monarchy, that of the *Assyrians*: For *Nimrod* carrying on his Kingdom by the same means he began it, made it necessary for some that were his Neighbours to set themselves up Kings, that they might be the better able to oppose him: and Pride and Ambition being very natural to Men, every body began to aspire to Dominion; so that in a short time every little Village and Hamlet had its particular Monarch, for we find the Land of *Canaan* pretty well stock'd with Kings when *Abraham* comes to sojourn among them.

Scripture account of Kings.

And this is all the Account that I can from the Scripture collect of the Original of Monarchy. But I think it is a little remarkable, that as the first City was built by *Cain*, so the first Kingdom was set up by *Nimrod*, who was of the Posterity of *Cham*. So that the very Foundations of Monarchy seem to be laid from those two Persons, who have a particular Curse and Brand upon them in Holy Scripture; and

and they that shew'd so little Respect to the Paternal Authority (from which some would derive the Original of Monarchy) are the Beginners of the Kingly Power: which is another very good Proof of its not being at first *Jure Divino*.

I could have said a great deal more on this Head: but my Design being to make an Essay, not a Book, I shall proceed to the second thing I undertook to prove from Scripture; that is, That after Monarchy was establish'd among the *Jews*, the People had a share in the Election, and did frequently set up and make their own Kings.

II. *That the Kings of Israel and Judah did owe their Crowns at the first to the Peoples Im-*
portunity, is, I think, so evident, by what I have already cited out of Samuel, that
I shall suppose it needless to repeat it here; for altho God did comply with the Peo-
ples Request, yet we cannot say he approv'd it, but barely permitted it, as he did
Divorces among them, and perhaps on the same account, the hardness of their
Hearts, but from the beginning it was not so. Mat. 19. 8.

Instances
thereof.

In Saul.

Yet 'tis not from this Topick that I intend to prove the People had a hand in making their own Kings; but I shall bring Instances of several Kings, of whom it is said by name, that they were set up by the People; and I will set them down in order, as I find them recorded in the sacred Story. But perhaps you will wonder that I should begin my Catalogue with *Saul* and *David*, who being particularly chosen and appointed by God Almighty, one would think the People should have nothing to do in setting them up. But yet you will find they had, if Scripture is authentick in the Point. For altho *Saul* was solemnly anointed by *Samuel*, 1 Sam. 10. 1. chosen by Lot at the Assembly of the Tribes at *Mizpeh*, ver. 21. and declar'd King, ver. 24. yet you may see how soon he was despis'd, even by those that had desir'd a King; for in the 27th Verse of that very Chapter, you will find them asking, *How can this Man save us? and they despis'd him, &c.* and he was glad to hold his peace, and went home to his own House at *Gibeah*, where he follows his Rural Imployment: for in the next Chapter we find him not very like a King, but like a good Husband, driving his Cattel home himself; *Behold Saul came after the Herd out of the Field*, 1 Sam. 11. 5.

In David.

But after *Saul* had signaliz'd himself by the Defeat of *Nahash*, and the People seem'd to have a very warm sense of their late Deliverance, *Samuel* very wisely takes them while they are in good Humour, and says, *Come, let us go up to Gilgal, and there renew the Kingdom: And the People went up to Gilgal, and there made Saul King before the Lord*, 1 Sam. 11. 14, 15. Which methinks seems to infer, that *Samuel* thought the Peoples Approbation necessary for the Confirmation of the Kingdom to *Saul*; for after that, they all own'd and obey'd him, which they did not before. And altho this is a pretty clear Proof as to *Saul*, yet those I shall produce about *David*, are, I think, more strong and pregnant: for altho *David* was by God Almighty design'd and declar'd King during *Saul's* Life-time, and at *Saul's* Death was in a very good posture to have possess himself of that Kingdom, to which he seem'd to have so good a Title (for he had a victorious Army with him, with which he might certainly very easily have vanquish'd the small remainder of *Saul's* baffled Forces) yet he does nothing like that, but comes and settles himself and Family quietly at *Hebron*, where the Text says he dwelt, 2 Sam. 2. 3. But how long he was there before the men of *Judah* came to make him their King, the Story does not express; but thither they came (of their own accord, it is to be supposed) and there they make him King over the House of *Judah*, 2 Sam. 2. 4. Now tho he had the same Title to the Crown of *Israel*, God having promis'd him both, yet he does not pretend to any Dominion over them, till they themselves come and make him their King, as you will find it, 2 Sam. 5. 3. and 1 Chron. 11. 3. but that was not till seven Years and an half after he was King of *Judah*: So that it seems *Israel* took a fair time to consider of it; for *Ishbosheth* reigning but two Years, it must be five Years and an half after his Death; and what Government was in that Interregnum, is hard to say, because the Scripture says nothing of it; but what they did so many years after, is yet call'd the fulfilling of *Samuel's* Prophecy to *David*; for the Text tells you, *They anointed David King over Israel, according to the Word of the Lord by Samuel*, 1 Chron. 11. 3. From whence we infer, That when God Almighty does the most directly and immediatly raise a single Person or Family, the People are his Instruments to do it and bring it about, as is, I think, very apparent in this Case of *David*, as also in that of *Jeroboam*: For altho the Prophet *Abijah* had given him ten Pieces, to signify the ten Tribes he should reign over, and had

In Jerobo-
am.

had also told him, *1 Kings 11. 37. I will take thee, and thou shalt reign according to all that thy Soul desireth, and shalt be King over Israel*: Yet for all these great Promises, he was glad to run for it, and play least in fight all Solomon's days; so that he had no advantage by it, but only great hopes, till the People fulfill'd that which was but Prophecy before, *1 Kings 12. 20. And it came to pass, when all Israel heard that Jeroboam was come again, that they sent and call'd him to the Congregation, and made him King over all Israel*: So true sometimes is that Saying, *Vox Populi est Vox Dei*. But this last Instance does afford us another Observation, which I think ought not to be past over in silence, and that is, That God does not tie himself to a Family or Line; For if Jeroboam will serve God as David did, he will build him as sure a house as he built for David, *1 Kings 11. 38*. By which we may see, that God is no Respector of Persons, and that Kings have no surer Tenure in God's Favour than other People; for his Promises are as conditional to them, as to the meanest man; and if they fail of their Duty, God may, and oftentimes does take the Forfeiture, as we see here both in the Case of David and Jeroboam. But when, and how far those Forfeitures are to be taken, ought to be left to that Almighty Wisdom and Providence that turns every thing to good. But to return to the Story, from which I think I have not much digrest as to the Matter, tho I may have a little inverted the Order; for according to that, I should not have treated of Jeroboam before Solomon. But the truth is, I cannot say there is such Proof of the Peoples setting up Solomon, as for the two preceding Kings; and yet there are some Circumstances in the Story, from whence one may infer something of that kind: However, it may prove something which may be of some use in our present Dispute, and that is, That a King may have a Successor, even while he lives; for David, you see, commanded Zadock the Priest, and Nathan the Prophet, to anoint Solomon King, &c. that, as David says in the following Verse, *he may come and sit upon my Throne, for he shall be King in my stead, 1 Kings 1. 34, 35*. Now the occasion of this unusual way of proceeding, I suppose, was this; David had a mind that Solomon should succeed him, and finding that Adonijah had got a strong Party, thought the best way to secure the Throne to Solomon, was to put him in present possession of it: Altho by the way it must be remark'd, that Adonijah was the Elder Brother, and so, according to our Rules of Succession, had the better Title; from whence it may be infer'd, That that Rule may sometimes be inverted without Sin: and 'tis the more remarkable, because that God had taken such particular care of the Right of the First-born in private Families, so that a Father had not power to make a Favourite-Child the Eldest, nor to put by the Son of a hated Mother from that double Portion to which his Birth-right intituled him. And yet the very first time that Succession to the Crown of Israel can be pretended, that Order, you see, is inverted, and Solomon the Youngest Son set up. But to go on with our Story; David, on the former account, finding it necessary to turn over the Crown to Solomon during his own Life, yet thinks it fit to give the People an account of his Proceedings, and the Reasons of them; for he tells them, *That God had chosen Judah to be the Ruler, and of the house of Judah, the house of my Father; and among the Sons of my Father, he liked me to make me King over Israel. And of all my Sons (for the Lord hath given me many Sons) he hath chosen Solomon my Son to sit upon the Throne of the Kingdom of the Lord over Israel, 1 Chron. 28. 4, 5*. And after that David had given Instructions to Solomon about building the Temple, and both the King and People had made their Oblations of what they had which was fit for the Work, the Congregation of the People continuing yet together, 'tis said, *Chap. 29. ver. 22. And they made Solomon, the Son of David, King the second time, and anointed him unto the Lord, to be the chief Governor*. So that it seems David thought the Peoples Approbation necessary for the Confirmation of the Crown to Solomon; else truly that very solemn Sacrifice and Invitation of a thousand Bulls, a thousand Rams, and a thousand Lambs, had been a very unnecessary Expence: And then it follows in the 23d Verse, *Solomon sat on the Throne of the Lord as King, instead of David his Father, and prosper'd, and all Israel obey'd him*. And altho 'tis said of his Son Rehoboam, both *1 Kings 11. 43. and 1 Chron. 9. 31. that he reign'd in his Father's stead*; yet *1 Kings 12. 1. 1 Chron. 10. 1.* we find there was something else necessary to make him his Successor; for in both places 'tis said, *All Israel were come to Shechem to make Rehoboam King*. And when he was so imprudent as to disoblige them, and would not comply with them, they did not think it their Duty to comply with him, nor would they allow him Second Thoughts in the Case, nor admit of any Treaty, but ston'd Adoram whom he sent to them, and immediately made Jeroboam King; so that of

Order of
Succession
inverted a-
mongst the
Jews.

twelve Tribes, there was but One that made *Rehoboam* King. But now the Kingdom being divided into two Branches, perhaps it may be expected that I should speak to them both: But the Succession in the Kingdom of *Israel* being so broken and confus'd, altho it may afford me more Instances both of the Peoples making and pulling down Kings; yet I shall, with the Tribe of *Judah*, adhere to the House of *David*, and from the Story of that Crown bring my main Proofs for the Confirmation of the Argument I have in hand. But since the Story of *Israel* may afford some very good and useful Observations, I hope I shall not be thought to deviate very much from the Design of this Paper, if I make a little stop here, to pick them up by the way, that so when I return to my Discourse of *Judah* again, I may meet with no more Interruptions.

The Case of
Jeroboam.

The Observations that might have been made on *Jeroboam*, I have in part superseded, by taking notice of them in another place; and therefore shall only repeat the Heads of them, which were, 1st. That the People were the Instrument of making good God's Promise to him. 2^{dly}. If *Jeroboam* had serv'd God as sincerely as *David*, he should have been as great a Favourite. 3^{dly}. That *Jeroboam* not performing those Conditions on which he was rais'd to the Crown, it was very just in God to take the Forfeiture, and to extirpate the House of *Jeroboam*. And altho *Baasha* does seem to come as ill by the Crown as any body recorded in the Sacred Story; for he not only conspires against, but slays the King his Master, 1 Kings 15. 27, 28. yet for all this he is own'd by God Almighty, being the Man that was promis'd shall I say, or rather threaten'd to *Jeroboam*; for old *Abijah* tells *Jeroboam*'s Wife, *Moreover the Lord shall raise him up a King over Israel, who shall cut off the house of Jeroboam*, 1 Kings 14. 14. And altho *Baasha* did take great care to fulfil the latter part of this Prophecy as fast as he could, yet he walking in the way of *Jeroboam*, and continuing in his Sin, God sends his Prophet to upbraid him, and tell him what he had done for him: *Forasmuch as I have exalted thee out of the Dust, and made thee Prince over my People Israel, and thou hast walk'd in the way of Jeroboam, &c. behold I will take away the Posterity of Baasha, &c.* 1 Kings 16. 2, 3. From which we may infer these two things.

1. That Usurpers are rais'd by, and may pretend to reign by God's Power; and therefore may claim the same Obedience with lawful Kings: so that the Affirmation of *St. Paul*, *There is no Power but of God*, ought to be taken in the largest and literal sense.

Succession
various among
the Jewish
Kings.

Our Second Inference is, *That Baasha and his Family were rejected, not for his Treason, but his Idolatry; not for killing Nadab, but for sinning like Jeroboam.* And truly this Observation will run thro most of the Kings of *Israel*, who generally speaking came to the Crown the same way, and afterwards walk'd in the same steps *Baasha* did: But if any of them had but broken down the Calves, and rooted out Idolatry, no question but their Posterity should have been establish'd; for you see, that *Jehu*'s imperfect Piety in destroying *Baal*, and rooting out the House of *Ahab*, who first introduc'd that Worship into *Israel*, was rewarded with his Sons sitting on the Throne to the fourth Generation; and had he but gone on to do that to the Golden Calves that *Josiah* afterwards did, who knows how long his Posterity might have govern'd *Israel*? But after his promis'd Succession was at an end, the Crown was never settled in any Family, but the Kingdom so broken by continual Conspiracies, that we hardly meet with any thing else that is remarkable, unless it be God Almighty's Justice, who from that time to the end of that Monarchy, suffers the Son to be pull'd down by the very self-same method and means the Father was set up by; so that there was nothing but Blood and Confusion among them, with which the People were so tir'd, that they do not seem to concern themselves at all in the matter, but submit to them that were uppermost; else it would seem pretty strange, that *Pekah* the Son of *Remaliab* should with Fifty Men assault and take the Palace-Royal in *Samaria*, kill the King that then reigned, and put the Crown on his own Head, as you have it 2 Kings 15. 25. For as it would have been a madness in *Pekah* to have attempted it with so small a Force, if the People had stood by *Pekahiah*: so on the other side, had the People join'd with *Pekah*, a much greater number would certainly have appear'd with him. So that I suppose the People sat Neuters, and did not concern themselves on either side, but obey'd him that prov'd the strongest. And altho that is a method that I should not much recommend, yet we do not find that God or his Prophets any where reprove them for it; so that it seems there was no fighting about Titles in those days. There might indeed be a great many more Observations rais'd from the Story, but any attentive

tentive Reader will be so well able to do it for himself, that I shall neither forestal his Diligence, nor tire his Patience with any more at this time; but resume the thread of my Discourse, and go on with the Story of *Judah*. And it must be own'd, that from the time of *Rehoboam* (where we last left) to *Uzziah* or *Azariah*, which you please to call him, there is no express mention of the Peoples setting up their Kings: But, as I observ'd before in *Rehoboam*, we are not, from the Texts saying, such an one reign'd in his Father's stead, to conclude, that he did it without the Peoples Suffrage and Good-will; and truly for the most part there are some general words, as that the People brought them Presents, as to *Jehosaphat*, 2 *Chron.* 17. 5. (and Presents was the way by which in those days People own'd and express their Duty and Homage, and the refusing them was an interpretative denying of their Authority, as you see in the Case of *Saul*, 1 *Sam.* 10. 27.) or when the Kingdom was confirm'd, as they say of *Amaziah*, 2 *Chron.* 25. 3. he then slew his Father's Murderers: So that it seems there was something previous, even to the empowering him to do that Act of Justice. And altho I cannot say these Phrases do downright affirm, yet they do intimate that there was something to be done by the People.

But whether *Amaziah* was set up by the People or no, I shall not now dispute; The Case of Amaziah. but sure I am, they pull'd him down, and depriv'd him not only of his Crown, but of his Life also, as you may find it in 2 *Kings* 14. 19. But of that we have a larger Account, 2 *Chron.* 25. 27. *Now after the time that Amaziah did turn away from following the Lord, they made a Conspiracy against him in Jerusalem, and he fled to Lachish; but they sent to Lachish after him, and slew him there.* Now that his turning away from following the Lord, did give his Subjects Authority to depose and to kill him, is that which I should be very loth to affirm, altho it seems to be set down there as the ground and occasion of their conspiring against him; but this I suppose I may safely aver, That his forsaking God might be one great Reason why God forsook him, and left him in the Power of his Subjects. For all the Promises to the *Jews*, being of temporal good things, and the possessing of *Canaan*, and long Life and Prosperity in it, their great Reward, they might very reasonably make their good or bad Success the great Criterion, by which they might judg how they stood in God Almighty's Favour, and whether they had pleas'd or displeas'd him. But now among us Christians, whose Promises are of another Nature, I should be very far from making that a general Inference, tho from the very same Event. For alas! it is yet too fresh in some of our Memories, when the best of Kings, and of Men, was deliver'd up to his Subjects: But I think I may borrow the Expression of the Prophet *Esay*, and say, *That not for his own Sins, but for the Transgression of the People he was stricken*: Wherein God's Justice was to be admir'd, in making their greatest Sin the greatest Judgment that could have been inflicted on a rebellious People. But to return to *Amaziah*: I must confess that I can never read that Story but with wonder, to find that the People are neither upbraided with it, nor punish'd for it. For altho we read, that he took vengeance on his Father *Joash's* Murderers, and that the People of the Land slew all those that conspir'd against King *Amon*, 2 *Chron.* 33. 25. yet we do not find any body so much as call'd in question for his Death: So that certainly there was some Circumstances that did much alleviate it; and that the Fact was not in it self so foul, as at this distance it appears to us: for altho *Uzziah* for to get the Crown, might promise them Impunity, yet I question whether God would have confirm'd the Sentence; and *Isaiab*, who prophesied in the days of *Uzziah*, should not have been more partial to the People than he was to the Kings; for you see he could tell *Hezekiah* pretty plainly, of his little Vanity, in shewing his Treasures to the King of *Babylon's* Ambassadors; and not only reproves the Pride of the Women for, but also repeats all the little foolish Toys that belong'd to their Dress in his Days: and he that was so strict in these lesser matters, methinks should not in silence have past over so foul a Fault as that of King-killing; and yet, to my great wonder, I do not find any one Passage, either in the Story, or *Esay's* Prophecy, that does so much as seem to reflect on that Fact as an ill thing.

There is another Prophet indeed (who liv'd in his Grandson's time) who is thought by some to reflect on this Crime very heavily, as the beginning of this sort of Sin in *Judah*; *Amaziah* being the first of their Kings who was murder'd, tho many had been murder'd in *Israel*, *Micah* 1. 13. I will not therefore insist too much upon this, but go on to observe, That altho they would not suffer *Amaziah* to enjoy his Life, after he had quitted both Crown and Kingdom, yet they had that

Honour and Justice for him too, after he was dead, that they not only interr'd him in the Royal Sepulcher, but set his Son also on the Royal Seat; *For all the People of Judah took Uzziah, and made him King in the room of Amaziah his Father, 2 Chron. 26. 1.* And he is indeed the first King that is so expressly said to be set up by the Authority of the People, altho their Suffrages, as I hope I have sufficiently prov'd, was thought necessary for the establishment of most of them.

The Case of
Uzziah.

But altho Uzziah was the first, you will find he was not the last that was so set up. But before we come to speak of them, we will consider one Passage in the Reign of Uzziah, and that is, his going into the Temple to burn Incense; which being against the Law, we will see a little how the Priests demean themselves, and whether they thought they were oblig'd to sit still if they could not persuade him off it, and rather suffer him to do it than resist him. But by the Preparation Azariah the High-Priest makes for a Scuffle, I fancy he did not understand the Doctrine of Passive-Obedience; for the Text tells you, *2 Chron. 26. 17.* that Azariah enters after the King *with fourscore Priests which were valiant Men.* But what occasion he had for such a Train, or why their Valour should be so particularly taken notice of, if they were to have no use of it, but were to submit, I cannot so easily conceive. But the 18th Verse says, they did actually oppose the King, and bid him get him out of the Sanctuary, for he had nothing to do there. Nay, in the 20th Verse they do thrust him out, but that indeed was after the Leprosy was come out upon him. But altho this Story might afford several Inferences which would not be beside our present Question, yet they are so very obvious, that I may trust my Reader to make them; therefore shall proceed, and must own, that from Uzziah to Josiah, there is no express mention of the Peoples interposing or setting up of Kings; but upon Amon's Murder, you see, they did take upon them; for you will find it both in *2 Kings 21. 24.* and *2 Chron. 33. 25.* *But the People of the Land smote those that had conspir'd against King Amon; also the People of the Land did make Josiah his Son King in his stead.* And I hope it may be said, that God Almighty did approve their Choice, he being the best King and the best Man that we read of in the whole Catalogue of the Kings of Judah; he performing his Duty both to God and his People so very well, it would have been a shame to his Subjects if they had not requited him, by paying him all that Observance and Duty to which he could have any Pretence. But altho he may be an Example to the best of Kings, the Scripture giving him this Eulogy, *And like unto him there was no King before him, that turn'd to the Lord with all his Heart, and with all his Soul, and with all his Might, according to the Law of Moses; neither after him arose there any like him:*

of Josiah.

Yet from him we may best learn what an intolerable Mischief a wicked King is; for tho Josiah was so very good, yet there was an old Arrear of his Grandfather Manasseh, that all his Virtue and Goodness could not clear: For, *Notwithstanding, the Lord turn'd not from the Fierceness of his great Wrath, wherewith his Anger was kindled against Judah, because of all the Provocations that Manasseh had provok'd him withal: And the Lord said, I will remove Judah out of my sight, as I have remov'd Israel; and will cast off this City Jerusalem, which I have chosen, and the House of which I said, My Name shall be there, 2 Kings 23. 26, 27.* Therefore what Reasons have both Church and State to deprecate such a King as will infallibly intail Ruin on both? For you see, that God's House, even that House that he had chose to set his Name there, shall be involv'd in the common Destruction. Therefore were I to add a new Clause to the Litany, it should be, *From such a King as Manasseh, Good Lord, deliver us.* But above all, we ought to be fearful of, and pray against an idolatrous and bloody King; for those are the two Crimes with which Manasseh is particularly charg'd, and which hasten'd the Captivity of Judah, and consequently shorten'd the Life and Reign of the good and belov'd Josiah, to whom it was particularly promis'd as a Blessing, that he should not live to see the Ruin and Desolation that was to be brought on the Nation after his Death. After which, *the People of the Land took Jehoahaz the Son of Josiah, and made him King in his Father's stead in Jerusalem, 2 Chron. 36. 1. and 2 Kings 23. 30.* But altho he inherited his Father's Kingdom, it seems he did not his Virtues: for it follows in *ver. 32.* that *he did Evil in the sight of the Lord,* and so his Reign was very short; for Pharaoh Necho makes him a Prisoner, and carries him into Egypt, and makes his elder Brother Jeboiakim King in his stead; in whose days the King of Babylon first came up against Judah; and after his death, Jeboiachin succeeds, whom Nebuchadnezzar carries to Babylon, and makes Zedekiah King, in whom the Succession was quite inverted (for he was Uncle, and not in the direct Line) and the Monarchy also ending with him, I should here

here have concluded this part of my Discourse, but that I cannot omit one Observation, and that is, That there were several Kings of *Judah* alive at the same time: it is certain two, *Jeconiah* and *Zedekiah*, but for any thing I know there might be three; for we do not read of the Death of *Jeboahab*, who was carried Prisoner into *Egypt*; and by his Age I'm sure he might survive *Zedekiah's* carrying to *Babylon*, for he was but Twenty three years old when he began to reign, and his own Reign, with all the three Kings that succeeded him, do not make twenty three years more before the Captivity. But now I would fain know, what the Royalists of our Age would do in such a case, and which of the three they would own? For there was great variety; One set up by the People, the second as Heir to him whom the King of *Egypt* had set up, and the third set up by the King of *Babylon*. But I do not find that the *Jews* had any such Scruples at that time, but always obey'd them who were in possession (as long as they were so) let them be set up by whom they would; and the Scripture gives them the same Epithet, they are all call'd *Kings*, without ever disputing their Titles. Nor are the People reprov'd for obeying *Zedekiah*, altho they knew that *Jeboiachin* (who had certainly the better Title, and had also reign'd as King) was alive. But altho the People are not rebuk'd for submitting to *Zedekiah*, whom *Nebuchadnezzar* had set over them; yet *Zedekiah* is for not obeying the King of *Babylon*, to whom he had past his word that he would: So that we may see, that Kings are obliged by their Oaths and Promises, as well as other men.

Two or three Kings of Judah all at once.

Which brings me to my third Particular I was to prove, which is, That at the first setting up of Kings among the *Jews*, their Power was not Absolute; but that they were oblig'd to certain Covenants and Conditions. And altho I will not pretend to prove it of every individual King; yet if I can do it of the first and second, and also the solemn repeating of it after an *Interregnum*, I shall hope I have done all that can be expected from me: For whoever succeeds to a Crown, is supposed to take it on the same Conditions his Predecessors had it; which it would be superfluous for the Story to repeat every time.

The Power of the Kings among the Jews limited.

And therefore I shall not make a long Preface to a Point that I hope so easily to dispatch; for I suppose, that a few plain Scripture Proofs will (for I'm sure they ought to) go farther than a long Rhetorical Discourse: And how few Instances soever I can bring, yet I shall begin at the Spring-head, and make the first Kings, *Saul* and *David*, Witnesses to the Truth of what I now assert, and prove that such a Compact and Agreement between the Prince and People is the very Corner-stone of Monarchy it self.

III.

And that I may do this the more fully and clearly, I must beg my Reader's Pardon, tho I carry him so far back as the Inauguration of *Saul* the first King of *Israel*. But I shall not tire his Patience so much as to repeat all that I have already said of *Samuel's* displeasure at the People for rejecting God, and desiring a Man to be set over them for their King, 1 *Sam.* 10. 19. And tho *Samuel*, to terrify them, had represented the King they desired rather in the shape of a Tyrant, that would destroy and ruin, than of a Prince that was to defend and save them, 1 *Sam.* 8. from the 11th to the 19th; yet seeing they would not be discouraged, but still persisted in their Resolution, *Nay but we will have a King over us*, God was so merciful to them, as to give Rules to this unruly King that *Samuel* had described: As I think we may safely collect from 1 *Sam.* 10. 25. Then *Samuel* told the People the manner of the Kingdom, and wrote it in a Book, and laid it up before the Lord. For had God designed that the King's Will should have been his only Law, it had, I'm sure, been a very superfluous, if not an impossible Task, for *Samuel* to have writ that down: And besides, the laying it up before the Lord, does infer something of extraordinary weight and sacredness in that Book, that was to be placed in that holy Repository, with the Records of that Covenant which God himself hath vouchsafed to make with his People. Now upon these Considerations, I think, I may safely call this the *Original Contract* that was between the Kings and People of *Israel*. But we may guess it was not an Absolute Arbitrary Power (such as our Neighbour Prince pretends to over his Subjects) that was by this made over to *Saul*; for altho he saw many of his new Subjects did despise him, yet he was glad to hold his peace; or, as the Margin says, He was as tho he had been deaf, 1 *Sam.* 10. 27. So that it seems *Samuel* thought it necessary the People should be farther obliged, than at present they thought themselves; and therefore proposes their going up to *Gilgal*, there to renew the Kingdom, 1 *Sam.* 11. 15. And all the People went to *Gilgal*, and there

Monarchy founded on mutual Compact.

Instance of Saul.

In David's
Case.

there they (that is, certainly the People) made Saul King before the Lord in Gilgal, and there they sacrificed Sacrifices of Peace-Offerings before the Lord. And that the joining in a Sacrifice, and both Parties eating and partaking of the same Sacrifice, or at least eating together at what they called a Feast, was both the most usual and solemn way of making Covenants in those days, both among Jews and Gentiles, is a thing so well known, that I need not insist on it; else both Sacred and Profane Story would furnish us with Proofs enough, were it necessary. But the Agreement which I suppose was then made between King and People, begot such a mutual Kindness and Confidence in one another, that the Text adds, *There Saul and all the Men of Israel rejoiced greatly*; and from that time we never find any Dispute between them. And so I shall proceed to his next Successor, *David*; and the Proofs of his making such a Covenant with the People of *Israel*, are as clear and full as can be desired. Upon what Terms the Men of *Judah* first admitted him, is not so plainly set down; but it being their own voluntary Act to make him King, we may suppose, that they would take care to see their own Interest secured. But 'tis very apparent, that after *Abner* designed to revolt to *David*, he will make his Conditions with him first: *And Abner sent Messengers to David, saying, Make thy League with me, and behold my hand shall be with thee, to bring about all Israel to thee. And he said, Well, I will make a League with thee, &c.* So *Abner* came to *David* to *Hebron*, and twenty Men with him; *And David made Abner, and the Men who were with him, a Feast*, 2 Sam. 3. 12, 13, 20. at which, I suppose, the Bargain was made on both sides; for, as I before observ'd, few Contracts were concluded without the Ceremony of Eating and Drinking together. And after that, *Abner* says, *I will arise, and go and gather all Israel to my Lord the King* (for now he owns him to be so, altho he would not call him so before) *that they may make a League with thee, and that thou may'st reign over all that thy Heart desireth*; as it follows in Verse 21. So that it seems the King's making a Covenant with the People, was to precede his reigning over them, altho *David* had been both chosen by God, and anointed by *Samuel* so many years before. And when upon *Abner's* death, that first Treaty with the Men of *Israel* was broken off, we do not find that *David* pretended to any Authority over *Israel*, till of their own accord, about five years and a half after, *All the Elders of Israel came to the King to Hebron, and King David made a Covenant with them in Hebron before the Lord, and they anointed David King over Israel*, 2 Sam. 5. 3. And yet, as I said before, if ever any King could pretend to be *Jure Divino*, it must be *David*; but for all that, he is content to come to the Crown like other Men, and does not assume it to himself till given him by the People.

In the Case
of Joash.

There is another thing also that I desire may be observed; which is, That the Phrase *before the Lord*, both in this place, and 1 Sam. 11. 15. is indifferently apply'd both to King and People. For here 'tis said, *the King made a Covenant with the People before the Lord*; and there, that *the People made Saul King before the Lord*. From whence I think we may collect, that being mutual, the Promise was as obliging, as it was solemn of both sides, for both are exprest in the same words. And we may also conclude, that when we meet with that Phrase of eating and drinking *before the Lord*, and making Kings *unto, or before the Lord*, as 'tis 1 Chron. 29. 22. it is designed to signify the mutual stipulation between King and People: So that we may infer, that *Solomon* did take the Crown upon the same Terms his Father *David* did, altho the word *League* or *Covenant* is not exprest. And if the three first Kings did thus receive the Crown from, and oblige themselves to the People, we may safely suppose that their Successors did the same thing, altho it is not particularly affirm'd of every one. Nor do we find any more mention of it till King *Joash's* coming to the Crown. And when the Kingdom was restored (after the *Usurpation*, or *Interregnum*, shall I call it, of *Athalia*) all the old Rights and Customs are both mentioned and repeated, as you may find it, 2 Kings 11. 4, 17. how *Jehoiada* brought *Joash* into the House of the Lord to the People, and made a Covenant with them, and took an Oath of them in the House of the Lord; and in the 17. Verse, *And Jehoiada made a Covenant between the Lord, and the King, and the People; that they should be the Lords People; between the King also and the People*; all which you will find repeated, 2 Chron. 23. 3, 16. And if this is not a pregnant Proof of the Truth of what I have said, that the Kings of *Israel* and *Judah* were not Absolute, but were under Obligations and Conditions to their People, as well as subjected to the Laws of God; if this Instance, I say, with the rest before mentioned, may not be allow'd for Proofs, I shall despair of bringing a Proof, either for this or any thing else, out of the Bible: but if these will pass, I suppose they may be sufficient to convince any impartial Reader, therefore shall presume it

it would be superfluous to multiply Quotations in so plain a Case.

And now I have gone thro the three things I propos'd to clear out of Scripture: how well I have perform'd my undertaking, I shall leave to better Judgments; and that my Readers may be the better qualified to be my Judges, I desire they would do as the Noble Bereans did, *Acts 17. 11. Search the Scriptures daily whether these things are so:* for as I advance nothing upon my own Authority, so I do not desire any thing should be credited only because I say it; for in Points of such importance, 'tis very fit every body should judg for themselves.

And if these things are so, Kings must be contented to own their Power as well as Birth to be of humane extraction. But yet I must beg leave to deny an Inference that some would make from that, who say, *'Tis no Act of Disobedience to God, to resist our Prince; nor of Obedience to God, to submit to him, if he does not derive his Power from God, and act by his Authority and Commission:* for I would fain know whether it is not possible to make a human Contract so strong, that it shall be a Sin against God to break it? For, according to this way of arguing, I might give away an Estate, and settle it as firm as Law can make it, and yet afterwards I might, without doing the Party any wrong, take it from him again without his consent, because he has no Grant to shew from Heaven for it. And this Instance I think may be pretty applicable to this Case: The People at the first Institution and setting up of Monarchy among them, make over so much of the Power, and such and such Rights and Privileges to the King, which if afterwards they refuse to make good, they are and ought to be lookt upon as Rebels and Traitors. But on the other side, suppose the Person to whom I had made over some part of my Estate should upon that pretend a Title to my whole Estate, and would let me enjoy no part of it, might not I lawfully resist him? And what answer they would give to this, may serve to the other Case; and that brings me to my second General, What Power and Authority it is, that is actually vested in our Kings? Under which the Doctrines of Non-resistance and Passive Obedience shall be consider'd.

Whether the Violation of a human Contract be a Sin against God.

II.

Having on the former Head examin'd both the Original of Monarchy, and also proved that it was limited and conditional among the Jews; and it being agreed on all hands, even by the greatest Assertors of the Prerogative, that our Saviour did not make any Alteration in the Rights of Princes, but what he found them possess'd of, he gives them leave quietly to enjoy; I think we may safely conclude, that since he made no augmentation to the Princes Power, he laid no new Obligation on the Subject, but the King is to govern, and the People to obey, according to the Rules agreed and establish'd between them: for the truth is, there can be no universal Rule given in the case; for the Magistrate's Power and the Measures of the Subject's Subjection, are only to be judged of by the particular Laws and Constitutions of that Kingdom; for that may be very lawful in one place, which is not so in another. Therefore our Saviour did give not only the wisest, but the justest Resolution to that ensnaring Question of the Jews about Tribute, that ever was, when he said, *Render unto Cesar the things that are Cesar's, and unto God the things that are God's, Mat. 22. 20.* For altho he does by name reserve nothing but God's dues, yet I think it can hardly be infer'd from that negative Argument, that the People should part with their dues; for the Command is only in general, to give to Cesar that which of right belongs to Cesar: so that I cannot think this Text gives Princes any Title to what is not their due. But you see he does not pretend to tell us what is Cesar's due, because no general Rule could be given in that case, the Rights of Kings and People varying almost in every Country: Therefore 'tis from the Statute-Book, not the Bible, that we must judg of the Power our Kings are invested withal, and also of our own Obligations, and the measures of our Subjection. And here I might have a fair opportunity of expatiating, and both tell you the advantages, nay the necessity of Government in general, and discourse also of the several kinds that are in the World. But my design being Brevity, I shall only take notice of that wherein we are particularly concern'd, and that is Monarchy; which, generally speaking, is the best Government in the World. But of that there are several sorts, as an Elective Monarchy, and an Hereditary one; and those that reign by Succession may be distinguish'd into two kinds more, an Absolute and a Limited Monarchy; the latter of which I take to be the happiest Constitution under the Heavens. Therefore next being born within the Pale of the true Church, I think to be born an *English* man is one of the greatest Privileges any one's

The King is to govern, and the People to obey by Law.

Power of our Kings not to be judg'd from Scripture, but from the Statute Books.

one's Birth can entitle him to ; a Happiness that I'm sure is envied by our Neighbours, tho I doubt not valued so much as it ought to be by them that enjoy it ; altho they have the opportunity of a Comparison, which they say is the only way to judge either of Happiness or Ease : for if we look but on our next Neighbours of the other side of the Dike, we shall soon see the difference, and what a misfortune it is to be subject to the Arbitrary Power of a lawless and merciless Tyrant.

Happy Constitution of England.

King and Parliament make Laws.

How they came under those unhappy Circumstances at first, is not my business at present to examine ; but I'm sure it ought to be the business of our whole Lives to bless God that we are not yet under the like ; and next our Thanks to God, we ought to commemorate the Courage of those noble Patriots, who from the beginning of our Monarchy have oppos'd the Encroachments that some of our Kings would have made upon our Laws and Liberties, which, blessed be God, were deriv'd intire to us, and I hope we shall transmit them so to our Posterity, notwithstanding all the Endeavours that have been us'd for the Subversion of them. For I think I may challenge the whole World to shew so equal and so happy a Constitution of Government as is this day in *England*, which is so exactly and harmoniously compos'd, that I know nothing to compare it to but itself : for as Virtue does commonly lie in the mean, so our Legislators have wisely pickt out all the good that was in all sorts of Government, but shun'd the Extremes that any one might have betray'd us to. For here the Populace have liberty without a Democratical Confusion and Fury ; the Nobility have all the Privileges to which Aristocracy it self could intitle them, without the necessity of running into Factions and Cabals for it ; and the King's Power is so equally ballanc'd between the two other, that his Power can hardly ever degenerate into Tyranny ; nor, on the other side, while he governs by Law can he ever want Authority, either to protect or correct his Subjects, or means to reward Virtue or discourage Vice, which are the great ends for which Civil Government was at first instituted. And as the several parts of our Government have such a mutual dependance one upon the other, so they have the same opportunities of reciprocally endearing and obliging one another : So that I have often thought, with reverence be it spoke, that we have a kind of *Trinity* in our Government, as well as in our Faith, to which I'm sure they ought to have another resemblance, and that is their Unity ; for their Power is so equal in the great point of Legislature, that one cannot properly say, that one is greater or less than another : for as all have negative Voices, so neither nor both the Houses without the King, nor the King without the two Houses, can do any thing ; but the Consent of the whole Three is necessary both to the making and abrogating a Law ; for all three Parties being equally obliged to execute and obey those Laws when made, it was very reasonable they should all give their Consents to them before they were made. And since the Legislative Power is in all Nations esteem'd the Supreme, and ours being so divided, it seems to be a little improper to call any one of the three the Supreme Power ; it must be acknowledg'd indeed, that the executive part of the Power is, by the Consent of the other two, committed to the King, and that only by way of Trust, and under such Limitations, that it cannot properly be call'd the Supreme Power, altho he may fitly enough be stil'd the Supreme Magistrate of the Nation, because he, and none but he, has the Power to make men keep the Laws, and to punish them for the Breaches of the Law ; but that under such Restrictions and Limitations, that the Title of Chief Magistrate of the Nation is given to him, much upon the same account that the Mayor of a Town is call'd the Chief Magistrate of that Town : for, without doubt, all the Members of that Corporation, and the Inhabitants of that Town, are obliged to obey their Mayor, when his Commands are according to their Charter ; and he has also power to punish the wilful Breaches of it in any that are within his Jurisdiction : but yet every body knows his Power is limited ; and so truly is our King's, and that in the most important things, and where he would certainly chuse to shew his Power, were it absolute ; that is, in the raising of Mony and punishing of Capital Offenders : for of all things the Sword of Justice should be solely in the power of the Supreme Magistrate (if he were really absolute) but that we know our Kings have not, for he hath no other way to right himself than what the meanest Subjects have. For suppose he should accuse any one of High Treason, he must first indict him, and then undergo all the tedious Forms and Processes of Law, before he can convict him. So that I cannot say, that the King has in that particular any privilege beyond the Subject ; for Traitors are to have as fair play for their Lives as any other Offenders,

altho

altho the Punishment (as it ought to be) is more severe when 'tis inflicted; for the King being a publick Person, and one that by his undertaking the Administration of the Law is more expos'd to danger (for by the very Execution of Justice he certainly provokes the Offender, and if he be of any Quality and Rank, his Friends and Relations too) so truly by the Rules of Equity both the Law and the People ought to set a double Fence about the King's Person, and take particular care to secure him from those Hazards to which his high Place and Office may render him more liable than more inferior People. So that those particular Laws which are made in favour of the Prince are rather the Effects of the Justice and Kindness of the People, than Evidence of the Privilege and Prerogative of the King: several Instances of which the Reign of our late King *Charles* the Second might furnish us with; but as it would be tedious to repeat them all, so truly all may be compriz'd in that one, of putting the Militia into the King's Power; for the remembrance of the late Rebellion, and the sad Effects of it, were then so fresh in every body's memory, that they thought there could be no greater Inconvenience than that of the King's wanting Power to maintain that Authority with which the Law had invested him; and so for his farther security, they pass'd that and several other Acts which were extremely for the King's advantage: And surely none of our Non-resistance Gentlemen but must own, that they were a considerable Addition to the Prerogative. And whosoever shall pretend they were the Right of the Crown before, teaches the King to be ungrateful as well as unjust.

I know it is alledg'd by some, *That a Sovereign Prince receives not his Authority from the Laws, but the Laws receive their Authority from him.* From which they would infer, *That a King is neither subject to nor bound up by the Laws any farther than he pleases.* But I must beg leave to deny both this their minor Proposition and the Conclusion, altho I grant the major, from which they say the other two will necessarily result: but for my part I cannot see the necessity of such Consequences, altho I should grant there was a personal Power antecedent to all the Civil Laws; for that was the Paternal, and not the Regal Authority. For sure none will affirm, that is the Law of Nature, as the former certainly is: for without all doubt the People had power to elect a King, before there could be any such thing as a Sovereign Prince born in the World. So that 'tis evident, that the power of the People is not only antecedent to that of Kings, but also that the Kings did receive and derive their Authority at first from the People. So that 'tis no incongruous, much less impossible Supposition, That Kings do derive their Authority from the Laws; for certainly they must owe their Power to that which gave it a Being, and that is that Original Contract which is made between the People and the Person or Family they shall think fit to advance to the Kingship; which ought to be the Boundary of the Prince's Authority, as also of the Subject's Submission. But however the Case may stand in other Countries, God be thank'd 'tis so in *England*.

For our antient History tells us what sad Confusion there was in this poor Island after the Conquest of the *Romans*, when every little Captain set up for a King; and there was always such inveterate hatred between those small neighbouring Princes (if they deserve to be call'd so) that they would rather call in and submit to Foreigners, who devour'd and enslav'd all sides, than yield to one another: And on this account both *Danes* and *Saxons* were at first call'd in. And altho the *Saxons* had establish'd an Heptarchy among us, yet they found they were too many for this small Plat of Ground; for they were always encroaching and fighting with one another: wherefore growing weary of that, *Horne* tells you in his *Mirroure*, chap. 1. *How they chose themselves one King, to maintain and defend their Persons and Goods in Peace, by Rules of Law, and made him swear, That he would be obedient to suffer Right, as well as his People should be.* And these are the Terms on which our first Monarchs, properly so call'd (for truly before they did not deserve the Name of Kings, for I'm sure their Power was not so great, or perhaps so extensive as that of a Lord Mayor of *London*) did ascend the Throne; and that the same Terms and Conditions were agreed to and confirm'd by his Successors, might be easily prov'd, would it not take up too much time; but yet King *Edgar* thought it worth their while to collect and transcribe them. And we find *William* the First was willing to wave his Title of Conqueror, and by confirming the antient Rights and Privileges of the People, be receiv'd as their Legal, not their Conquering or Arbitrary Governor. For altho Conquest may give one power, it cannot of it self give one right to rule a Nation; for the Consent of the People, either tacit (that is, when they like their new Governor so well, that they never offer to resist, but quietly comply and submit

Objections
answer'd.

Peoples
Power an-
tecedent to
that of
Kings.

Kings an-
tiently cho-
sen by the
People.

Power of
the Kings
to do good
and not
hurt.

mit to his Government, receive the advantage of his Protection and Laws, and pay him in return what his Laws require) or explicit (that is, when they make Conditions and Terms for themselves before they will submit) is so necessary, that no King can be long safe without it. And since the way of explicit Contract has been the general Method of our Predecessors, therefore whatever Objections are made against that known Saying of *Bracton*, *Lex facit Regem*, it will hold good in Law; and I verily believe none of our Kings would exchange the Title that the Law gives them to the Crown, for all the Evidences the Clergy can furnish them with out of the Gospel, to prove their Power absolute and arbitrary. Therefore since 'tis the Law that must tell us with what Power our Kings are invested, perhaps *Bracton* may give us as good an account of it as any body, when he says, *The whole Power of the King of England is to do good, and not to do hurt*; which he explains, by adding, *Nor can he do anything as a King, but what he can legally do*, lib. 3. c. 9. From whence, I suppose, the old Maxim, *That the King can do no wrong*, first sprung. For while he acts by Law, 'tis evident he cannot; and for what he does against Law, he does not do it as a King. Nay, the same *Bracton* seems to think, That he actually unking himself by it; for he says, *Non est enim Rex, ubi dominatur Voluntas, & non Lex*: By which certainly he does not mean, that he ceas'd to be a good King, for that he need not have been at the pains of telling us, for our own sad Experience would soon have convinc'd us of it; but having told us before, That he can do nothing as a King but what he can legally do, without all doubt his meaning was, that we are not to look upon him nor obey him as our King, when he commands any thing contrary to Law.

Monarchy
of England
limited.

But there has been so much writ of this Subject already, that as it would be hard to say any thing new upon it, so it would be both tedious and superfluous to repeat the old. But I suppose I may safely take for granted what all sides allow; and that is, That ours is a limited Monarchy: for all must own, that if our Kings act as they ought to do, they must keep within the Boundaries of the Laws. And where the Regal Authority is circumscribed, and the King's Power as King has its *Non ultra*; yet that the Peoples Obedience should know no Measures, but is extended *ad infinitum*, is to me, I must confess, a very unintelligible Doctrine. For if we are equally obliged to render Obedience, either Active or Passive, to the Kings commands which are contrary to the Law, as we are to those which are consistent with it, and authorized by it; I must crave leave to say, that Law is a very superfluous, because a very insignificant thing: nay certainly, if the Case be so, it were much better be taken away; for perhaps it may betray some poor ignorant People, who, 'tis possible, may think it gives them some Right, when indeed it gives them none. But if they shall think fit to make any distinction between the Obedience we are to render to the King, when he speaks like a King, by the Consent and Authority of the Laws; and what we are to pay him when he speaks in his Personal and Private Capacity: If, I say, they shall think fit to make any distinctions in the Case, I should desire them to set the Boundaries; for truly, according to the Doctrine of Passive Obedience (in the Latitude they now take it) I know no Body else that can fix them. But I would fain know of them, whether there is not such a Rule in Divinity, *That where there is no Law, there is no Transgression*: And if no Transgression, certainly no Obligation to undergo any Penalty; for the same Text tells us, in the same Verse, *Rom. 4. 15. That the Law worketh wrath*; that is, that the Law obligeth to the Punishment threatned to the Breakers of it: But *where there is no Law, there is no Transgression*, and consequently no *Wrath*. And if they will please to apply this to the point in hand, I think I need not add any thing to it, but proceed to shew, that besides the general and implicit Obligation that our Laws lay upon all that have any share in the Government, or any Interest in the State, our Kings have a more particular and actual Obligation to govern by them, and to submit to them. For that august Ceremony of their Coronation was not intended only to please and amuse the Vulgar with the Gaiety and Splendor of the Shew, but was instituted for wiser ends, that by the Magnificence and Solemnity of the Action, it might fix upon the Hearts both of King and People the remembrance of those Vows and Engagements they at that time mutually make to one another; and I do not at all doubt, but the Custom was deriv'd from the *Jews*, and is the same thing that I have so largely treated on in my first Part. For here King and People make a solemn Covenant before the Lord, and that nothing may be wanting to the Resemblance, they partake of a common Meal together; which was the antient way of confirming and ratifying all Compacts and Agreements betwixt Party and Party: And

Kings to
govern by
Law.

And I think I may not improperly stile the Coronation, the Marriage-day between the King and Kingdom: for altho in Hereditary Monarchies there is a kind of Pre-contract, as there often is between private Persons, which may be so obligatory that nothing but Death can dissolve it; yet the Wisdom of the Law does not think that sufficient, but requires a formal and publick owning of it, for these two Reasons among many others. *First*, For the satisfaction of the Parties themselves, and to give them the greater confidence in one another. *Secondly*, That the number of Witnesses may be some check to them, and make them think how notorious their Perjury will be, after they had confirm'd their Vows before a Multitude.

So that, as before we proved the King's Power was limited, so now I think we may say it is conditional also; for I cannot but suppose, that all that shall read this Paper, understand the nature of a Covenant so well, that I need not tell them the Obligation is mutual, and that if I break my part of the Covenant, I have no right to challenge the performance of the other side. But if Kings have any particular Privilege of breaking their Words, and forswearing themselves, they would do well to produce their Grant of exemption from the Rules of God and Nature: for we know where 'tis said, *I will not hold him guiltless that takes my Name in vain*; in which Law I do not remember any Exception. But I know to this 'twill be replied, That they shall answer for it to God, but are not accountable to their Subjects for the breaches of their Oaths: And if so, I do wonder why they were at first imposed; for I think I may not improperly urge what St. Paul says, *1 Tim. 1. 9. The Law is not made for the righteous Man, but for the lawless, &c.* So 'tis not a good King that we desire to tie up, for we know he will be a Law to himself; but 'tis the lawless King that we would set Bounds to. But if the most sacred and solemn Oaths give the Subject no Right at all to require or expect performance, I know not of what use they are unless it be to damn the King, which surely will be but small Consolation to a Christian Subject. But this by the by.

King's
Power con-
ditional.

But since such Covenants have in all Ages and Nations been accounted so obligatory and sacred, that the Apostle tells you, *Gal. 3. 15. Tho it be but a Man's Covenant, yet if it be confirm'd, no Man disannulleth or addeth thereto.* Nor can any After-act (as he proves very well in the 17th Verse) make it void: Therefore by this Doctrine I cannot see what Authority any third Person has to acquit either King or People of their Oaths to each other. So that I hope I may without offence say, That Kings are obliged by their Covenants, since God Almighty owns himself to be so; for *Moses* desires the People should take particular notice of it, *Deut. 7. 9. Know therefore that the Lord thy God, he is God, the faithful God, who keepeth Covenant and Mercy with them that love him and keep his Commandments*: That is, God will be sure to perform his part of the Covenant, if the People keep theirs. And in *Psal. 89. 34. My Covenant will I not break*, says God. And it seems to be a Title wherein he takes more than ordinary delight; for both *Nebemiah* and *Daniel* desiring to procure his Favour, and to make him propitious to his People, begin their Addresses to him in these very words; *O Lord God, the great and terrible God, that keepeth Covenant and Mercy, &c. Nebem. 1. 5. and Dan. 9. 4.* Therefore since it is one of the Attributes and Excellencies of God, that he is true and faithful to his Word, it should be no part of the Privilege of Kings to be at liberty to break theirs.

Covenants
mutual and
obligatory.

Now all Covenants being Conditional, where there is a possibility of the Parties breaking their part of the Covenant, there is also a possibility of their forfeiting the Advantages of it, and the Right they had to claim performance of the other side. Now that Kings can break their Word and Oath too, as well as meaner Men, we have had a little too late experience: therefore it is a Point of great concern to know how far, and when it may be lawful for the Subjects to take the Forfeiture for their Kings breach of Covenant.

And here God forbid that I should attempt to make the Government precarious, or to make Kings accountable for every little Failure: For as every breach of the Law in a Subject is not Treason, so every violation of it by the Prince is not the forfeiting his Prerogative. Nay, there are so very few Cases wherein 'tis possible to be done, that perhaps our late unhappy King *James* is the first Instance of it in our Nation; not but that we have had as bad Kings, and worse Men to rule over us: For none but himself did ever attempt in so many Instances, to destroy the Constitution, and overturn the very Foundation of our Government. For 'twas neither his Male-administration in general, nor the several particular Injustices that were committed in his Reign, that I look upon as his great Crime: For altho the Pro-

Kings not
precarious,
nor account-
able for
small
failures.

K. J. at-
tempted to
destroy the
Foundation
of our Go-
vernment.

ceedings against the Bishops and *Magdalen* College were ill things, and made a very great noise, yet sure none can say that he forfeited his Crown by those particular Breaches of the Law: No, that was the time for shewing and exercising true Passive Obedience; for had the Bishops done any thing but just what they did, they had not done their Duty; but their Patience and Submission to those Injustices, did extremely well become them: for 'twould be a sad World indeed, if every body that thought themselves hardly or unjustly dealt with, should fly in the face of Publick Authority, and have power to resist the lawful Magistrate. No, I would rather chuse to live under the greatest Tyrant in the World, than in such an Anarchy; for where there is any Law, private Persons are not, nor ought not to be Judges in their own Causes, and that is one Reason why an unjust Sentence is obligatory. In such Cases private Persons must suffer, rather than by Force right themselves: for 'tis an old Saying, *Better a Mischiefe than an Inconvenience*; that is, Better a private Person should be wrong'd, than the publick Peace disturb'd; and the calling Authority in question for every little Complaint, would be a greater Inconvenience than a thousand unjust Sentences against particular Persons; for altho Justice be never so much violated, yet if the Law it self be preserv'd intire, and the Constitution and Basis of the Government remain firm and unshaken, the Subject must be content to suffer, and neither oppose nor depose their King.

Crimes by
which the
Crown was
forfeited
by K. J.

But yet after all, there are some things that may be done by Princes, which the greatest Asserters of the Monarchical Right hold to be Forfeitures of it; particularly, the selling of them, or betraying them to a Foreign Power and Jurisdiction: to which I shall beg leave to add two more; the setting up a false and spurious Heir in an Hereditary Monarchy; and the overturning all the establish'd Laws, and setting up Arbitrary Power in a limited one. And if I can prove our late King *James* to have been guilty of all three, surely I need not say much more to prove that he has forfeited his Right, or that his Subjects are actually freed from their Allegiance to him.

1. In setting up
Popery.

1. And as to the first Point, I shall not trouble my self to enquire into the Particulars of the Private League, which they say he made with the *French* King, for we have publick Matters of Fact enough to prove all that is necessary in this Point, viz. the sending an Ambassador to *Rome*, and owning of the Pope's Authority so far as to receive his Nuncio and Provincial *Romish* Bishops, and that against so many Laws and Statutes that are expressly against it; and not only that, but making Privy Counsellors, and advancing to the Helm of State those very Persons that by our Laws are not allow'd to live in the Kingdom. And to what end could all this tend, but to bring the Nation under the Papal Jurisdiction and Slavery?

2. In setting up a
suspected
Heir.

2. The second, of setting up a suspected Child to be Heir; as 'tis a thing of which we have no Precedent in all our Story, so 'tis a Sin for which we have yet no name; but I should call it Civil Adultery, it being doing that to the Publick, that a false Wife does in a private Family. It is a thing indeed against which there is no Law, because like that of committing Parricide, the Law-givers thought no body could ever be guilty of it; and truly I believe he is the first Instance of a Father that ever set up a suspected Child against his own Children. And if this is not an inversion, or rather a subversion of the Succession, I know not what is. And yet, to my wonder, I can see some People pass this by very patiently, who can rail with a very good Grace against the Parliament; I cannot say for giving the present King a Right, but anticipating the Title he had to the Crown, and that with the Consent of the next Heirs too; so that they cannot say there is any wrong done in the Case. And yet some make a horrid outcry, as if both the Constitution of the Government, and the Laws of Succession, were all subverted and broken by it; when they have only set up a Prince of the Blood, for which there are Precedents in our own Chronicles. For *Henry* the Seventh by Name, had no Right of either side but what he deriv'd from his Mother (who was Heir of the House of *Lancaster*) and his Wife, who was the true and undoubted Heir of the House of *York*, and consequently of the Kingdom. But altho he reigned by her, he would not suffer her to reign with him, for he would allow her neither Power nor Title; so that this is no new thing among us, but the setting up that spurious Brat I am sure has no parallel: And if there was to be Inversion in the Case, surely it should sooner be made for the sake of a Noble Prince, who merited all that could be done for him, than for the setting up of an unknown, but in all probability base-born Child; the very thoughts of which all true *English* men ought to abhor.

3. But

3. But how foul soever the two former things may and ought to appear, it is the third that knocks the Nail of the head. And I think I may reasonably suppose it superfluous for me to enter into a long discourse of the illegality of the Dispensing Power, which is so fully display'd in the Trial of the seven Bishops, that it may supersede all that can be said on that Point. But altho *Charles* the Second wish'd he had the Power of dispensing with tender Consciences on some particular Emergencies; yet none but our late King *James* ever pretended to have Authority to dispense with, and silence all the Laws of the Nation. But when he assumed to himself the Power of dispensing with those Laws he could neither make nor abrogate, he did at once both unking himself and release his Subjects. For as the *English* Kings have no Right but what the Law gives them, so the People owe no Duty but what the same Law obliges them to; and when our Kings go about to invalidate the Laws, they destroy that very Power that gives the Monarchy both Being and Authority. And that this was the very Case of the late King *James*, I dare appeal to any body that knows our Laws, unless it be those vile despicable Wretches whose Names will be infamous to all Posterity, who pretending to sit to judg according to Law, gave Sentence contrary to the Law. But it was very much for the honour of that noble Profession, that there were so many sets of Judges turned out, and that they were so many Years before they could pick out twelve Men that were Rogues enough to be entrusted by them; and even here they were happily deceived, for among four whom I suppose they thought themselves secure of, two of them when they came to the trial, approved themselves honest Men. But if we talk of Treason and Traytors, none sure, since the very Foundation of Monarchy in this Nation, have deserved that Title so well as *J.* and *C.* for I am loth to know them by the Names of Lord *C.* and Lord Bishop of *Ch.* (but since there was a *Judas* among the Apostles, I hope it will be no scandal to our excellent and reverend Bishops, that there was one Traytor among them) But certainly two such Traytors both to King and Kingdom, Church and State, *England* never bred: But I hope they will meet with such full Rewards for their Treasons in this World, as may deter others from following them, and also secure them from that sadder Vengeance in the World to come, which I am sure I heartily wish.

3. In setting up a dispensing Power.

I could here add a great deal more on this Head, but that I suppose it needless: for having proved before, that our King's Power is both limited and conditional, and consequently that he can forfeit his Right to the Government; I think I need not, now I have made out those three things, use any other Arguments to prove King *James* has actually done so, altho I might insist upon his deserting, as well as subverting the Government.

III.

Yet after all that I can say, I do not expect every body should have the same Sentiments I have. But having endeavour'd from the beginning to clear the way before me, and to prove all my Points as I went, that I may not leave my Reader in a Maze at the last, I shall consider and answer, as well as I can, the chief Objections that may be made against what I have now said, which I think may be reduced to these four Heads.

1. That it is against the receiv'd Opinion of Monarchy's being *Jure Divino*, and being first instituted by God.
2. That it contradicts several plain Texts of Scripture.
3. That having sworn Allegiance to King *James*, his doing an ill thing will not acquit us.

Objections.

4. That 'tis doing the same thing we condemn'd in the Rebellion in Forty one.

And I should have added a 5th, but that I hope I have in part anticipated all the Objections can be made against the Succession.

1. Now to the First; I shall only desire them to consider what I have said in my first Part, about the first beginning of Monarchy in the World, and particularly the establishing it among the *Jews*. But altho I there deny its first Institution to be by God's immediate appointment and direction, yet I would not be understood so, as if I meant to exclude God from having any thing to do in the setting up or making of Kings; for I know that by him Kings reign, and 'tis by his Counsel and Inspiration that Princes decree just things: For alas! without him the mightiest Monarch in the World can neither think a Thought, nor stir a Step; for in him (as *St. Paul* says) we live, and move, and have our being, *Acts* 17. 28. So that in some sense God may be said to be the Author of all our Actions; for the Prophet says, *Shall there be Evil in the City and the Lord hath not done it? Amos* 3. 6. And without him

Monarchy not *Jure Divino*.

him we are not able to do any thing; for St. Paul says, 1 Cor. 3. 5. *That we are not sufficient of our selves to think any thing as of our selves, but our sufficiency is of God:* And if not able to think, certainly not able to act, without his Concurrence and Assistance. And if a Sparrow shall not fall to the ground without our Father, and the very Hairs of our Head are numbred, as our Saviour tells us, *Mat. 10. 29, 30.* surely that God that takes such care and notice of little inconsiderable things, will not let Kings and Kingdoms be without his Care and Providence: And yet for all that they may be, as St. Peter styles them, *an Ordinance of Man.* The truth is, some of our Prerogative-men treat the King as the Papists have done the Virgin Mary, think they cannot speak too highly of her; and so they make her a perfect Goddess, and ascribe Honours to her which are not her due. But altho I have as great veneration for her as I can or ought to have for a Creature, and acknowledg her to be *blest among Women*; yet she was but a Woman still: So I must look upon Kings as Men still, and own them to be the chiefeest, I wish I could always say the best of Men. And altho God may in his secret Decrees design the making such Persons Kings, yet he makes the People the Instruments of raising them, and 'tis from the People that they immediately receive their Power, as I shew'd at large in the Stories of *David* and *Jeroboam.* But tho God do not chuse a King by any miraculous Declaration of his Will in the Case, yet (if that will satisfy) I will grant that he may direct and incline the Hearts of the People to chuse one rather than another; and when they once have chose, God certainly does confirm it; so that 'tis not in the Peoples power to chuse again, unless by the King's Fault his Power is forfeited, and so it revolves to the People: For I should be very unwilling to live under a Government where God has nothing to do; but all that I contest is, that Kings are not so immediately set up by God, that upon that score they should be unaccountable to their People, especially where they are not the Supreme Power, as 'tis evident they are not in *England.* And that one Circumstance does make so great an alteration in the Case, that it almost supersedes what I have to say to the several Texts of Scripture that may be urged against what I have here said: But yet that I may both take away all Objections, and give all the satisfaction imaginable, we will consider all those Texts distinctly, and see how far they may be applicable to our Case.

Duties to
Cesar.

2. And the properest method of doing it, I suppose, will be by taking them in order as they lie: And the first that offers it self to our consideration, is that of our Saviour, *Mat. 22. 21. Render therefore to Cesar the things that are Cesars, &c.* But having had occasion in another place to treat of that Text, I shall desire my Reader to turn some few Leaves back, and shall only add to what I have there said, That I do acknowledg it a Duty to render to *Cesar*, nay to every body, the Things and Dues that belong to them; but think that we fully discharge our Duty to the King, when we pay him all the Obedience that the Law gives him Right to challenge, or lays any Obligation upon the Subject to perform: And if they can by this Text prove we do not do so, or that we are obliged to render unto *Cesar* the things which are not *Cesar's*, they will then indeed say something to the purpose. But this being the only Rule that our Saviour gave in the Case, and it being acknowledged that our Saviour did not intend to make any alteration in the Rights of Princes, but leaves them as he found them; it may not be amiss to consider a little how he found that Matter, and what particular Commands God gave to the *Jews* concerning their Obedience to Kings. And I must declare, that I have read the Old Testament over with all the attention of which I am capable; and unless it be in the *Proverbs*, I cannot find one Text that gives us any Direction, much less Command, about subjection to Kings, but only what our Divines draw by way of Inference from the fifth Commandment. But whether God intended it in that sense they have now put upon it, I think might bear a Dispute: And if he did, it must be only by way of Prophecy; for there was not a King in *Israel* for near five hundred Years after the giving of the Law: And this I'm sure of, that upon the setting up of *Saul*, when *Samuel* had the King and People face to face, altho he often repeats their Duty and Obligation of fearing the Lord, and obeying him, yet not one word of command to the People to obey their new King, which I have sometimes wonder'd at; and the only account I can give of it is this, That being they were resolv'd they would be like other Nations, and would have a King to reign over them, God complied with them in the thing, but would have nothing to do with the Compact between them, but leaves them to agree that Matter between themselves as well as they can; and accordingly we find, that tho God chose

chose the Person, as in the Case of *David*, yet they would not admit him King till they had made a Bargain with him, as I have shew'd at large in the first part of this. So that upon the whole, and as far as I can discover, the Power that our Saviour found Kings invested with, was what the People first consented to, and afterwards by Laws oblig'd themselves to: But there can be no Universal Rule, because the Laws vary according to the different Constitution of Government that is in several Nations: Therefore our Saviour gave the properest and the fullest Answer, by bidding them render to Kings what by the Municipal Laws of that Kingdom was their Due.

The next Text is that of our Saviour's rebuking St. Peter, *Mat. 26. 52. Then St. Peter's said Jesus unto him, Put up thy Sword into thy place; for all they that take the Sword, shall perish with the Sword.* Now for the better understanding of this Place, it may not be improper to compare the several Relations of this very Passage, as 'tis diversly recorded by all Four Evangelists; and altho it is the most at large in St. Matthew, yet he omits one very necessary and remarkable Particular, which is related by St. Luke, chap. 22. 49. *And when they who were about him saw what would follow, they said unto him, Lord, shall we smite with the Sword?* But Peter being a little too zealous, would not stay for his Lord's Answer, as the others did; but without leave makes use of his, which occasions him this Reprimand from Christ, and upon a double account. First, Striking without his Lord's Commission; for I do not question but it would have been a fault in him to have cut off any body's Ear, as well as *Malchus's*. Secondly, Thinking that Christ wanted his Defence; and tho Christ had so often foretold, *That the Son of Man was to be betray'd, and given into the hands of Sinners*, yet now he would pretend to rescue him from those very Sufferings he came on purpose into the World to undergo. For St. John lays the stress of the Argument there, *Put up thy Sword into the Sheath: The Cup that my Father gives me shall I not drink it?* John 18. 11. So that the unseasonableness of the Defence is all that he there reproves, and seems to me to be the chief thing aim'd at by St. Matthew, when Christ says, *Thinkest thou that I cannot pray now to my Father, and he shall presently give me more than twelve Legions of Angels?* But how then shall the Scripture be fulfilled, that thus it must be? *Mat. 26. 53, 54.* But allowing it was unlawful for St. Peter to strike without Christ's leave, yet I cannot see how that Text would support all that they would build upon it; for the Chief Priest's was not the supreme Authority of that Nation at that time; for they own'd to *Pilate*, John 18. 31. *That it was not lawful for them to put any Man to death.* And whether they had any better Authority to take him, is more than I think can be prov'd; for St. Matthew intimates, that they sought to take him by Craft and Subtilty, and could not have accomplish'd it but by his Servant's Treachery; and after they had apprehended him, and brought him to *Pilate*, who was the Chief Magistrate under *Cesar*, yet he would not pretend to judg him, because he belong'd to *Herod's* Jurisdiction, till *Herod* return'd him to him. So that here is no reason to suppose, that *Malchus's* being the High Priest's Officer, was an Aggravation of St. Peter's Guilt, for the High Priest had no Power himself in those Causes; so that there was no Resistance of the Supreme Magistrate, or Publick Authority in the Case. But our Saviour did very justly condemn Peter's taking so much upon him, as to presume to strike without his Lord's leave, when he stood by.

But now the two main Texts of *Rom. 13.* and *1 Pet. 2. 13.* should come to be consider'd: but they interfering a little one with another, we shall endeavour to reconcile them, before we discourse of either; for nothing can be more directly contrary, than St. Peter's calling that *the Ordinance of Man*, which St. Paul says is *the Ordinance of God*. But I must confess I cannot see that there is any greater necessity of bringing St. Peter to St. Paul, than Paul to Peter; for they are both Canonical, and both equally true: and were it not that all Texts are to be prest to maintain the Doctrine of Monarchy's being *Jure Divino*, I should think there were no great difference in the Case. For having before so fully prov'd, that Kings were at first set up by the People, St. Peter had a great deal of reason to call them *the Ordinance of Man*; but after they were establish'd, it was then the Ordinance, Order, or Command of God, call it which you will, that the People should obey them as far as they had oblig'd themselves by Law to do: And I do and must own, that any Subject who refuses Obedience, either Active or Passive, in any of those Instances which the Laws and Constitution of the Government require him to submit to; that Man, I say, does actually resist the Ordinance or Command of God, and does deserve the Penalty the Apostle threatens, take the Word in what Latitude

No Authority from the N. Test. of the Jure Divino of Monarchy.

tude you please: And this I take to be the clearest way of reconciling the two Texts. And I will also own, that the Apostles gave very good Advice, and that the Christians of those times were oblig'd to follow it; and if there be now in the World any Christians in the same unhappy Predicament, I should think it their Duty to follow it also. But, God be thank'd, we are in much other Circumstances than they were at that time; for they were under the Command of Arbitrary Tyrants, whose Will was their only Law: Whereas we are under no Law but what we have made our selves, and our King's Power is both limited and conditional, and, properly speaking, we cannot call the King Supreme, for I think I have before shew'd, that there is a possibility for a King to be guilty of Treason, or at least that which is tantamount to it; for they can forfeit their Regal Authority, as I do not at all doubt but our late King actually did. So that unless they will be pleas'd to prove, that it is the duty of all Kingdoms and States to put themselves into the same Circumstances, and make themselves Slaves on purpose that they may be oblig'd by this Command of St. Paul's, I think we may very lawfully plead exemption from some of the Inferences they would draw from it; not but that I will own there is such a duty as Passive-Obedience, a Virtue which even in our Constitution we may have the opportunity of exercising, perhaps oftner than they desire; altho of late it has been so great an Idol, that not only our Laws and Government, but even our Religion and Posterity were to be sacrific'd to it. But if it was really the effect of a tender Conscience, I would very willingly be inform'd how they came to be so particularly partial to this Rule of St. Paul's, for there are a great many Commands of our Saviour's which seem to be as obliging, to which they do not pay so great deference. For I am sure there are such Precepts, *That if any man smite thee on the right Cheek, turn to him the other also; and that we shall give to him that asketh, and from him that would borrow of thee turn not thou away; and of him that taketh away thy Goods, ask them not again;* and many such like we shall find in the 5th of St. Matthew and 6th of St. Luke. Now if these were Duties to the Primitive Christians, how come we to be excus'd from them? and I can think but of two Answers; the one that they were Temporary (but that will not be allow'd for something I know) and the other, and I think the better, is, that the Circumstances of the Christians are so much alter'd in worldly respects, that what was a proper means to bring People in, and make them in love with the Gospel, when they saw the great Patience and Meekness of the Professors of it, would not now be so proper a way to preserve it. For now that the Laws have set the Boundaries to every Mans Right (which neither Law nor Gospel allows any body to infringe) to take away those Fences, would be so far from advancing Christianity, or rendering it more beautiful and lovely, that on the contrary it would let in Confusion, and authorize Rapine and Disorders: so that a literal performance of those Duties would, in our present Circumstances, destroy one of the great designs of Christianity; and certainly that can never be a Duty which is against the very end for which the Command was at first given: and whether an illegal and unlimited Obedience in the People would not destroy the very end of Government, which we know is the safety of the People, I shall desire may be a little better consider'd. But now suppose some tender Consciences should think themselves oblig'd to obey those Commands of turning the Cheek, and not asking their Goods again in the very literal sense of the words, yet might they not keep this to themselves, and exercise the Virtue when occasion offer'd it self? Or was it necessary for them to cry this their Opinion in all the Market Towns of the Countries? nay, to thunder Damnation against all that were not of their mind. How this may be applied I believe every body can guess; and also what in all probability would be the effect of such Proceedings: but a word to the Wise is enough.

3. I come now to the 3d, and in appearance the most difficult Objection, How those that have taken the Oaths of Allegiance to King James can be absolv'd from the Obligation of them? But if they will allow what I should hope I have before sufficiently prov'd, that the King's Power is both limited and conditional, I should think this great Question might be very easily solv'd; for every body knows that a Covenant is a mutual Obligation, and has force no longer than while the Conditions are perform'd on both sides: but if one of the Parties shall wilfully break his part of the Covenant, he does not only forfeit the Right he had to challenge the Performance of the other side, but does by his breach actually void the Covenant, and consequently releases the other Party from all the Obligation he was under.

Laws make
the Boundaries of
Man's
Right.

Allegiance
to K. J.
consider'd.

But besides this, there is another Consideration, which being of weight ought not to be omitted; viz. that it is an uncontrollable Maxim of our Law, which makes it Treason to resist the King *de Facto*, altho it be in defence, and to maintain the Right of the King *de Jure*. So that Possession is not only, as we us'd to say, eleven Points of the Law, but is in this Case all twelve. And if any body can think it their Duty to commit Treason, it would be pretty strange; but if they do, however they may satisfy their Consciences, 'tis probable they will not the Law so easily. Nor is this Law, if thorowly consider'd, so unreasonable in it self, as perhaps it may at first appear: For 'tis an acknowledg'd Aphorism, *That the Safety of the People is the Supreme Law*; and therefore to be prefer'd before Titles to Succession. For the Law-makers might easily suppose, that no Person who was actually in possession of the Throne, would willingly quit it unless forc'd to it; for I verily believe our late King *James* is the first Instance of any Prince that ever ran away from his Government, and quitted the Crown without striking a stroke for it, and that when he had an Army to defend it; and truly for that we must own our selves extremely oblig'd to him, he having prevented that, which that Law seem'd to fear, and desir'd to avoid, that is, a Civil War. For the Law supposes that a greater Inconvenience to the People, than to be govern'd by one that had not a right Title to the Crown: And truly all the Proofs that are brought out of the Gospel for Obedience to Princes, do confirm this Maxim of our Law; for neither our Saviour nor his Apostles bid Christians enquire into the Right and Title of the *Roman* Emperors, but bids them to obey them under whose Government it was their Lot to fall: For few of them could pretend a legal Title to the Crown, and sometimes there were several Persons set up by the several Parts of the Army; and then he that had got the Mastery, prov'd his Title by his Success. So that the Right of the King *de Facto* is confirm'd both by Law and Gospel, and therefore must be unquestionable, when there is no such thing as a King *de Jure* to oppose him: For by the Forfeiture King *James* made of his Right, I do not at all doubt but our present King is *de Jure* as well as *de Facto*. Nay had King *James* never done any thing amiss in his whole Reign, but that of deserting the Government at that very nick of time, it would certainly have justified our Compliance with the present King. For altho King *James* had thought it necessary for the security of his Person to withdraw himself, yet sure there was no necessity of his leaving us without all Government and Defence. For might he not have appointed a Vice-Roy or Deputy, as he does in *Ireland*, that might have kept possession of the Throne in his Name, and to whom the Subject might have resorted, both for Justice and Protection? But instead of that, he steals away himself, orders his Army to be disbanded, and so abandons the People solely to the mercy of the Foreign Force, whom he leaves in the possession of the Authority which he quitted. And if Silence and Submission may be interpreted Consent, he did by that resign both Crown and Kingdom to him. But however he meant to dispose of himself, 'tis evident he left those of his Subjects, that would have adher'd to him (as there is reason to believe a great many would, if he had stuck to them) in a very ill Predicament; they having *then* no power to resist, and *now* no right to do it. For all that shall now attempt his Restoration, are by the Law made actual Traytors; and I do not at all question, but that he would take care to see they should be treated as such, if by their means he should recover the Crown: For the resisting of the King *de Facto*, is a Treason that not only makes them liable to that King's punishment whom they oppose, but leaves them to the discretion of the King they serv'd; for the Law gives him power to execute them for Traytors, who should now restore him to the Throne: And both the Example and Doctrine of his dear Brother and Ally of *France*, will soon teach him which is the best, because much the readiest way of requiting those who should procure his Re-establishment. For 'tis a dangerous thing to oblige a King of his Principles too much, as we may learn from the barbarous treatment of the poor *Hugonots* in *France*; who without all dispute gave that King the Power to use them, or rather abuse them so. And such we have a great deal of reason to believe, shall be the requital of those of the Reform'd Party, who should do the same thing for King *James*, that they did for the now *Tres Grand Louis*.

Resistance
consider'd
according to
Law.

Resisting a
King *de
Facto* con-
sider'd.

And since we *English* have no Obligation to our Kings but what the Law lays upon us, when we are by that set at Liberty, methinks we should not think it our Duty to enslave our selves contrary to the Laws and known Constitutions of the Nation; especially since there is nothing else requir'd of us, but to accept of that De-

No Obliga-
tions to
Kings but
by Law.

liverance

liverance which God himself hath wrought for us. For there are very few that have had any other part to act in this Great Revolution, than *that of standing still* (as *Moses* says to the *Israelites*) and *seeing the Salvation of the Lord*, *Exod. 14. 13.* Of which that we may be worthy, pray God make us more sensible of it, and more thankful for it; and this I suppose may be enough, because a great deal more than I at first intended to have said to the third Objection.

And to the Fourth I hope there will be no great occasion of saying much; for certainly no body that can either consider or compare, can think the Cases of 1648 and 1688 parallel. For the great (I had almost said the only) fault of that good King and true Martyr, was his complying too much with his People (and yielding that to their importunity which both Law and Conscience told him he should not have consented to) a fault that I dare say his Son *James* would never have been guilty of.

The Case
of the Ship-
mony.

But it must be acknowledg'd indeed, that in the Case of the *Ship-mony* he did assume a Power the Law did not allow him; but 'twas the only Instance of his doing it in his whole Reign: And 'tis evident, that in that too he did not design his Subjects Wrong; for no body was forc'd to pay it, and they that had a mind to contest the thing, as some did, had liberty so to do: For there were Trials in *Westminster-Hall* about it, and Sentence given against the King. From which we may gather these two things: *First*, That the Judges were neither overaw'd nor turn'd out by the King, for doing Justice. *Secondly*, That the King did not think himself above the Law, but submitted to it; so that it seems there was no such thing as the Dispensing Power known in those days, but the Rights of the People were preserv'd inviolate; I wish I could have said the Rights of the Crown had been so too, and then perhaps we should never have known the vast difference that there was between the Father and the Son. But whoever will please to compare the Cases, will find full as great difference between the Causes, as the Persons. For in the former, it was the most open and notorious Rebellion that ever was recorded in Story; whereas all the Fault that the generality of the *English* can now be charg'd with, is (if it be a Fault) the complying with the necessity that King *James* himself laid on them, of submitting to the Power he left in Possession, and which I am sure they were not in a Condition to resist. And now methinks it should hardly bear a Dispute, Whether 'tis any bodies Duty to make themselves Traitors according to the Rules both of Law and Gospel (as I have shew'd above) for the Restitution of him that subverted the Laws, deserted the Government, and I doubt still designs the Destruction of the Nation. And truly the Causes and Occasions of those two great Revolutions in 48 and 88, were not more distant than their Designs and Ends were; the *first* intending the Subversion, and this latter the Establishment and Preservation of the best and purest Religion in the World.

Religion
not in dan-
ger by the
present Set-
tlement.

But perhaps some may say, this is not the best way of doing it; for 'tis an Old Saying and a True, That *the Blood of the Martyrs is the Seed of the Church*, which, like a Palm-tree, grows fastest when it has the greatest weight upon it: And that 'tis a very idle Outcry that some make, that they would take their Religion from them; for that dwells in the Heart, and no body can take that from me, unless I please. But altho 'tis very true, that the Heart is the Seat of true Religion; yet I think it favors a little too much of Presumption, for any body to undertake to preserve it there by their own Strength. But suppose that they were, and that they were sure their Faith should not fail under the severest Trials; yet is the Publick Service of God, the Opportunities of going into the House of God, and there pouring out our Prayers and Praises before him with the Congregation of the Saints; is this, I say, so despicable a Blessing, that 'tis not worth keeping if we can? We see how holy *David* bemoans and laments his Banishment from the Temple, and how he longs and languishes for the return of those blessed Privileges, so that he envies the very Birds that were permitted to nest near the Altar; and yet he had as true a sense of God and Religion, and as plentiful Effusions of the Spirit to supply such a Want, as any of us can pretend to. But alas! it would not be only a temporary Deprivation that we should bewail; for whoever now shall attempt to bring back King *James*, does as much as in him lies, to cut off both himself and his Posterity from the solemn publick Worship of God for ever. And altho I know God can support under any Condition, yet they will find a great deal of difference between those Sufferings they wilfully bring upon themselves, and those which are of God Almighty's laying: For I can securely rest upon his Word; for I know that *he is faithful, and will not suffer us to be tempted above that we are able,*
but

but will with the temptation make a way to escape, that we may be able to bear it, 1 Cor. 10: 13. But if we will not escape when he affords us the Means, what Promise is there either of Support or Deliverance from those Dangers we wilfully bring upon our selves? And 'twill certainly be very just in God, to suffer us to fall under that Ruin we have courted, in which, I doubt, we shall have very little Comfort; for 'tis not the Sufferings, but the Cause that makes the Martyr. Therefore I beg leave to conclude with the words of *St. Paul, 2 Cor. 6. 1, 2, 3.* and beseech you that you receive not the Grace of God in vain: for as God may truly say, *he has heard us in a time accepted, in the day of Salvation he hath succour'd us;* so may I also, *Behold, now is the accepted time; behold, now is the day of Salvation.* And let us all be careful that we give no offence in any thing, that the Ministry be not blamed: But that we may all with one Heart and one Mouth bless God for his wonderful Deliverance, and pray for the Prosperity and long Life of King *WILLIAM* and Queen *MARY*, whom God grant long to reign. *Amen.*

The ADVANTAGES of the Present SETTLEMENT, and the Great DANGER of a RELAPSE.

THE wonderful Revolution that hath fallen out in the Island of *Great Britain* since *September* last 1688, is justly at present the Discourse and Amazement of all *Europe*; but chiefly in the three Kingdoms of *Scotland, England* and *Ireland*, whose Inhabitants are the Parties most concerned in it: and no wonder, since a greater Deliverance, more unexpected, and that hath plainer Characters of a Divine Contrivance and Conduct, hath neither been heard of, nor seen in any place of the World, in any of the former Ages of it. But there is a greater Wonder now to be observ'd amongst us than the Deliverance we have receiv'd (if any thing can be greater) viz. That there are many of us who seem to be much discontented with it, and express themselves in such a manner, as if they were offended with Heaven it self, for being so propitious to us, and seem ungratefully to envy his Honour, whom God made the great Instrument of our Deliverance. Strange! that another Change should come under the desires of reasonable Men, which must of absolute necessity occasion a fatal Relapse into the same Miseries we were so deeply plung'd, and likewise occasion the inevitable and lasting Ruin, not only of our potent Deliverer, but also of all those Royal Branches of the Royal Family, in whose Prosperity all the hopes of *England's* Happiness are certainly repos'd.

While I frequently hear such Murmurings and Whisperings as tend to such a fatal End, I cannot but be surpriz'd, both with Astonishment and Grief: Astonishment, it being wonderful Men should be displeas'd with their own Safety and Happiness; and Grief, it being easy to apprehend those ill Consequences to the Publick, that usually attend such Discontents and undutiful Murmurings, so maliciously and industriously promoted.

And tho I am very sensible of my own utter unfitness for so great an Undertaking, as the allaying of those Heats and Animosities that so much disturb the Quietness and Peace we have in our hands, if we would but embrace it, and be contented to enjoy it; yet I hope I shall be forgiven of all, even of those who perhaps may have an aversion to this Discourse, for the very sincerity of my Intention: for the Author assures his Reader, his Condition is so obscure, his Acquaintance in the World so narrow, and (as you will easily perceive by this Pamphlet, both as to the matter and stile of it, which falls so much below the dignity of the Subject, and is so rude and unpolish'd) his Habitation is somewhat solitary, and in a manner rural; and therefore it cannot be imagin'd that Self-interest should share in his Design: No, suffer him only quietly to put his poor Mite into the Treasury, and if he in any measure contribute to the Publick Peace and Happiness of that Church of which he glories to be a Member, even that of *England* as it is now by Law established, and

of that Kingdom, which he accounts it the greatest part of his Civil happiness to be a Subject in, he is sufficiently satisfied; which design he is sure no man can possibly blame.

What the Murmurers would be at.

I would therefore, as an Introduction to what follows, ask but this Question of those Persons that seem so discontented with our present Tranquillity: Gentlemen, what is it you would be at? what do you desire? If they speak plainly, and give a round answer to the question, it must be this; We would have King *William* and Queen *Mary* dethroned again, and have them either voluntarily to return back from whence they came, or else to be sent back again by force; we would have King *James* the Second restored to his Crown and Dignity, and reinstated in his Throne and Government. This must be the Answer, or else I cannot imagine what some Men keep such a noise for. Fair and soft, Sirs! This is a demand of the greatest consequence and importance that ever *England* heard; I assure you it's not likely to be yielded to without very mature and serious deliberation: and I am very confident, would men suffer their reason to act freely, without the strong Biass of Interest or Passion, they would see it as unfit to be asked, as they certainly must despair of having it granted. For, upon the whole, the yielding to the Proposal, would be a fatal Relapse into all those Miseries, under which we so lately groaned: and as it is in the case of a Relapse into the same Distempers from which Patients seemed almost to be freed, their last condition is much more dangerous than their first; so undoubtedly it would be with us, And this will the more clearly appear, upon a serious consideration of these three things.

The chief Heads of this Treatise.

1. What condition we were in before the happy arrival of their present Majesties.
2. What condition we are now in by this happy Revolution.
3. What a miserable condition we must of necessity fall into upon such a second Revolution as would satisfy some mens desires.

The Condition of the Nation before the Revolution.

As to the first of these, it's to be hoped that you will not take it ill, if upon your Proposal, we make a review of that state you would reduce us to. I assure you, we are as sorry, even for King *James's* sake, that the reflection is so unpleasant, as possibly you can be; yet if we find it to be a miserable Condition, you will, I hope, excuse us, if we be not willing desperately to rush our selves into it again.

Now I know not what in all the World is dear to a reasonable Creature, that was not (as our Circumstances were) in the greatest hazard of being utterly lost. For what is it that is most dear to us as Christians? Religion. What is most dear to us as *English* men? The enjoyment of our Liberties and Properties, secured to us by the Laws of the Land. What is most dear to us as individual single Persons? The safety and protection of our Lives, Persons and Families. Now I dare appeal to all unprejudiced men, whether in any Nation under Heaven, that was so firmly in the possession of all these as we were a few years ago, they were ever in greater danger of being utterly lost, than they were here in *England*; so that the preservation of them is next to a Miracle.

K. 's Designs.

His Zeal for Popery.

That there was a Design to subvert the established Religion of this Church and Kingdom, I hope no man will so much as question. King *James* did quickly let us see what was so much feared by many before he came to the Crown, that it was great folly to imagine that a Prince so great a Zealot for his own Perswasion, would not think it his Duty to use that Power God had given him, to the promoting of that Religion he was so zealous for; which could never be without the Extirpation of the established Religion, accounted by him a Pestilent Heresy. To this end tended the erecting of Chappels for Popish Devotion, and Publick Schools for Popish Education. Was it for nothing, that an Ambassador was resident at *Rome*, and a *Nuncio* publicly entertained here, for a constant Correspondence between *England* and *Rome*? Why were all the Protestant Nobility and Gentry turned out of all places either of Honour, Profit, or Trust; and Papists put in their Rooms? What could be the design of that decoy of Liberty of Conscience, at a time, when since the first beginnings of those unhappy divisions of Protestants here at home, there was never less need of it; when not any Protestant Party amongst us did so much as petition for it; when the Generality of Dissenters were so well satisfied with the Church of *England*, that there were never fairer hopes of perfect Unity amongst us? But this was the matter; the division of Protestants amongst themselves would weaken the whole Body of them, and render them the more capable of an easy overthrow;

throw; a design, which the wiser sort of Dissenters quickly saw, and even the generality of them in a short time were satisfied in. For since it's as easy for the *Arctic* and *Antarctic* Poles to meet together, or for the *East* and *West* to be in Conjunction, as to reconcile Infallibility of one Religion with a Toleration of all; the necessity of extirpating all Hereticks, with a connivance at all Heresies; all were easily convinced what such a Toleration tended to, and none were entrapped in the Snare, or trepanned with the Cheat, but a few hot-headed Zealots, ready to sacrifice all to Ambition and Revenge. What could be the design of putting Papists in for Heads of Houses, Masters and Fellows of Colleges, in our famous Universities? What could be the design of erecting a High Commission Court for Ecclesiastical Causes, for the suspending and depriving of Bishops and Clergy; which was justly termed the new Inquisition of *England*? Why was that ensnaring Declaration so violently, and yet so unnecessarily prest upon the Clergy, to be read in Churches; and seven Bishops imprisoned, and the whole Clergy of the Kingdom threatened with Deprivation for Non-compliance? If these things, and a great many more, will not satisfy men that there was a real Design of subverting our Religion, I know not what will.

Infallibility and Toleration inconsistent.

Yet to demonstrate this matter to the full, consider only the mighty endeavours that were used to abrogate the Penal Laws and Test; in which the King used so much industry, that he truly took methods too much below Royal Dignity to effect it. What a mean office for a King to become an earnest Solicitor of his Subjects, to that which they could not in Conscience nor Honour yield to; and then a disobliger of all his Kingdom, for removing them from all places, upon so necessary a refusal! The design must be mighty great, when Arts both so mean and so harsh were used to accomplish it. But this was it: The Papists had then stood upon even ground with all other Subjects; and the great advantage of Authority on their side, would quickly have raised their ground above us; the doors of both Houses of Parliament had been set wide open to them, whence the House of Peers might quickly have been filled with new Creations, and the House of Commons as quickly made Popish by Force or Fraud in Elections, Corporations being framed and regulated agreeable to the design: and what could be then expected, but a sudden Establishment of Popery? The whole Nation did see this Project so clearly, and the greatest part of the Dissenters were so sensible of the Mischief, that tho they had smarted somewhat hardly under the Lash of the Penal Laws but a little while before, yet they would rather venture the Continuance of them, than run the hazard of ruining the substance and being of the Protestant Religion amongst us: nor could all the virulent Pamphlets thrown about to exasperate them, by a Tragical Commemoration of their former Suffering by the Penal Laws, ever persuade them so far out of their Senses, as not to be fully assured, that the Little Finger of the Popish Inquisition would be heavier upon them than the Loins of all the Penal Laws made since the Reformation against them. And indeed to the Fidelity of that Party at that Critical time, are we to ascribe a great share of the disappointment the Popish Party met with, who were much chafed that the Grand Cheat of the Toleration had no better success.

Endeavors to subvert the Laws and Religion.

Dissenters Behaviour in K. J's time.

And as all these plain matters of fact are more than sufficient to convince us of the mischievous Design of subverting the Established Religion in these Kingdoms; so are they a plain and evident proof, that there was certainly a Private League between the Late King *James* and the *French* King for bringing this to pass, tho there were nothing else to evince it. For it could never be hoped that the Popish Party here in *England* could do it, their Strength and Interest were not sufficient to accomplish such a Design. There was a fine Army indeed, but most of them Protestants, who would hardly be commanded by Popish Officers, to ruin their Religion. For men must certainly fight very faintly when the edge of their Sword is turn'd against themselves, and their Success is certain Desolation to their Country. From whence one of these two things must follow; either that King *James* had no Resolution to change the Religion of this Nation, the contrary of which appears by what hath been said; and besides, to say so, is to put the greatest affront and dishonour upon the late King that can be, and calls his Wisdom and Discretion highly in question, in the Conduct of his affairs; that he should do all these mean, harsh, and suspicious things before alledged, for no other end, but to bring an obloquy upon himself, to render his Government uneasy, fearful, and suspected, and to disoblige all the three Kingdoms. But if it cannot be admitted, that a Person of any common sense or reason should be guilty of so much Indiscretion, that might

K. J's Adherence to France.

in the end prove so fatal to himself, then we must acknowledg that some Foreign Power was certainly to be made use of; since no reasonable man proposeth to himself any end, but withal he proposeth means proportionate to that end, in order to the acquiring of it. And now we would fain learn, what other Force can so much as come under the Probability of being made use of, but the *French*?

Church of
England
very kind
to K. J. be-
fore and
after his
Accession to
the Crown.

And now that which makes this Design abundantly the more inexcusable in it self, and the more insupportable to us, is, That this Church, and the Religion professed in it, run such a great hazard from a Prince, from whom the Members of that Church, and Professors of that Religion, had all the reason in the world to expect much kinder usage. For I am sure never any Prince could be more highly obliged by Subjects, than King *James* was by the Members of the Church of *England*, both before and after he was King. Not to run so far back as the unhappy Wars in his Father's time of ever Blessed and Glorious Memory, when the Church of *England* was ruined, and a great many of the Members of it, of all Degrees and Conditions, exposed to the greatest miseries for their firm adherence to the Interest of the Crown. Nor yet to speak of his late Majesty King *Charles* the Second's happy Restauration; it's enough only to reflect upon our dutiful behaviour to King *James* himself, both when Duke and King. Who were the great Opposers of the Bill of Exclusion in Parliament, both in the House of Lords and Commons, and out of Parliament all the Kingdom over; and preferred their standing fast to the Duke's Interest at that time, to all their own Interest in the World? What Reproaches, Disgraces, Insolences, nay Threats were cast upon, and used towards us, as were very well remembred? Was there ever any King received by his People, or proclaimed in all places, with greater Satisfaction, Joy and Acclamations, than he was? For who then doubted of the Sincerity of King *James* the Just? Who were they that so readily settled the Revenue of the Crown, and gave larger supplies than the necessity of Affairs required? Who were they that stood the Shock, and ventured their Lives in suppressing of that dangerous Rebellion of *Monmouth*? Were they not all Members of the Church of *England*, who preserved the Crown for King *James* before he came to the possession of it, by opposing the Bill of Exclusion; and kept it upon his Head when he was possessed of it, by suppressing *Monmouth's* Rebellion? And this brings to my mind an Expression, in the *Oxford* Reasons, against signing the Address of their Bishop *Dr. Parker*: for being told that their refusal of the Address would exasperate the King, and move him to take rougher Methods against the Church; their Answer was, That if the remembrance of the Services of the Church to the Crown in those two Affairs, of the Bill of Exclusion, and *Monmouth's* Rebellion, were not sufficient to secure the King's kindness to the Church of *England* and its Members, the signing of such insignificant Addresses would never do it; and truly I cannot tell what else could do it.

Popish
Princes al-
ways un-
kind to
their Pro-
testant
Friends.

But the truth of it is, the Papists have all along upon all occasions so ill requited the Fidelity of the Protestants to their Popish Princes, as if they had a mind never more to be obliged in that nature. I need not speak of the obligations put upon Queen *Mary*, the Daughter of *Henry* the Eighth, and the barbarous Usage shew'd them in a very little while after, nor of former dealings of that kind in *France*; the present King of *France* hath demonstrated this to the full, he owes his possession of the Crown of *France*, and consequently all his Glory he so proudly boasts of, to the firm adherence of his Protestant Subjects to his Interest. He hath several times publicly own'd this, and yet his Cruelty to them hath far surpass'd all Heathen Barbarity. And now I am very sorry that such a hearty Endeavour to subvert the Religion established in this Church, which could not be without the ruin of those to whom the late King *James* was so highly oblig'd, hath given such another fresh Instance, that Popery will not suffer Kings so much as to be grateful to their Subjects; for by this means they have satisfied the World, that it's utterly unsafe for a Protestant Kingdom to be under the Government of a Popish Prince.

The Mag-
dalen Col-
lege Case.

But since all men have neither that knowledg of, nor that zeal for their Religion, that it were heartily to be wished they had, yet every man is very sensible when their Liberties and Properties, and the Laws by which they are secur'd, are invaded: and lest the Endeavours to subvert Religion should not have been sufficient to have provok'd the Nation, there was added to this a plain Invasion of the Rights of the Subject, and of the Laws upon which they are groundd; to let the World know, that there was no mistake in those men who affirm'd, that Popery could never be introduc'd into this Kingdom, unless Slavery usher'd it in. It were endless to make instances of this; the Master and Fellows of *Magdalen* Col-
lege

lege are a sufficient proof of this, who were depriv'd of their Freeholds by a most arbitrary Sentence of a Court, that in the whole Constitution of it was utterly illegal, and in an Affair of this nature a Judg altogether incompetent; where the Persons concern'd were admitted to no legal Trial before the competent Judges, by a Jury of the Vicinage, as in those cases is the Law of the Nation; but were remov'd by Persons, who had no more right to dispossess them of their Freeholds, than the Persons receiving such an injurious Sentence had to dispossess their very Judges of theirs. And it was no wonder that the general Cry of the Nation, following that unjust and arbitrary Sentence, was, All our Freeholds and Estates shake by this Sentence.

Another proof of this Invasion of our Rights and Estates was the most exorbitant and extravagant Fines, put upon Persons by the plain Arbitrary Will of the Judges, as if they would declare to the World, their design was rather to ruin the Delinquent, than punish the Delinquency. This was so frequent, that every Term shew'd how easily, for very small faults, men might be ruin'd in their Fortunes in a trice. Exorbitant Fines.

The invading the Rights of Corporations was more than sufficient proof, that our Liberties, Estates and Laws were in the greatest hazard. The despoiling them of all their antient Privileges struck at the very Foundation of the Government itself; the altering all the antient Prescriptions in chusing of Persons for Representatives in Parliament, struck at the very Fountain of our Laws, both in being, and to be made. Corporations invaded.

But above all things tending to the ruin of all our Security in our Laws, Liberties and Properties, none is more worthy of our serious Consideration, than that Helluo of Dispensing Power that would have devour'd all at a morsel, and swallow'd all at one draught, if need had been; there was no Law, no Privilege able to stand in the way of this *Leviathan*. This was such a Power, that once being yielded to in the full latitude it was claim'd, would have render'd all Laws in *England* not only uncertain and insecure, but utterly needless; nay, altogether ridiculous. For to what purpose should the Nation be put to so much trouble and charge, to elect Representatives for the House of Commons; or why should Persons, who have either a natural Right as Noblemen, or a deputed Right as Commoners, go from all parts of the Kingdom to enact Laws for the good and profit of the Realm, if the Sovereign Power can dispense with them, whenever their backs are turn'd? To what purpose is all this wast? Or why should the Nation be fool'd with Laws, which when made, promise us the greatest Security in all things that are most valuable, when in the mean time, at the mere will of the Prince in dispensing with these, all our Security is turn'd into Despair; and all our Expectations, grounded on those Laws, wholly frustrate and quite blown up? Dispensing Power and its Perniciousness.

The Imprisonment of the seven Bishops, who all deserve to have Statues erected to their Memories, for so courageously stemming that Tide of Oppression that was like to have sunk us into the deepest Miseries both in our Religious and Civil Rights: This Imprisonment, I say, tho it was dismal and gloomy, yet blessed be God their Trial that follow'd upon it, occasion'd the absolute baffling of that Dispensing Power, by those learned and stout Gentlemen their Counsel, who dar'd at such a time to vindicate our Laws from so much Violence, and our Liberties from such Oppression. Imprisonment of the seven Bishops.

But then if we add to all this, That we were not so much as safe in our Persons and Families, our Condition will appear the more deplorable. How many were there who abandon'd their Native Country, upon the apprehension of those Dangerers that Innocency it self was not able to secure them from? Was not the Lord *Delamere* expos'd to the greatest danger by a false Accusation, and press'd earnestly to acknowledg a Capital Crime, of which in the end he was found innocent? Was not the now Reverend Bishop of *Salisbury* forc'd to fly for his Life, and could hardly obtain the liberty of breathing in a Foreign Air, or the benefit of the Protection of Foreign States and Princes; excepted in all Acts of Grace as the greatest Criminal? And yet upon the strictest enquiry into the reason why Royal Power was so arm'd against this Person, it will be hard to find any other than this, that he was the Author of the *History of the Reformation*; which will be a sufficient Monument for that Great Man when he is dead, of his undaunted Courage and Zeal for, and great Abilities and Industry in defending a Religion his then Majesty had so great an aversion to. Add to this the cruel corporal Punishments inflicted upon several Persons both in City and Country. In fine, the unspeakable Oppression of the Soldiery, No Security to Persons or Families. Lord Delamere and the Bp of Sarum in what danger.

Soldiery, by virtue of whose quartering at pleasure neither mens Families or Persons were secure from the greatest violence: most of the Corporations of the Kingdom are too too able to give a sad and deplorable account of this, who felt the Insolences of mercenary Men, permitted in all their extravagant Mischiefs to enure the Nation by degrees to Oppression and Slavery.

I know that many will not be pleas'd with such a Representation of our late Miseries; but they must pardon us, if we judg it fit to reflect upon them, since they so much desire to involve us in them again. For upon a review of these Particulars, which are undeniable matters of Fact, we cannot possibly think that a continuance in such a miserable Condition was, or is, or can be a desirable State, tho it never advanc'd further; much less can we think it tolerable, when the whole Nation were more than satisfied, that these were but the beginning of those Sorrows we had such a dismal Prospect and Apprehension of, had the designs afoot made a further Progress. And we would pray them to pardon us, that we are not willing to be so treacherous to our selves and our Posterity, as to throw our selves into that Misery, from whence we have been so miraculously deliver'd.

No Justification of those Male-Administrations.

Now, tho I do not find any man that will take upon him the impossible Task of justifying these Proceedings, but rather all of force must acknowledg there were many Male-administrations in the Government, yet they strive to excuse them as much as may be. I must tell them, would the matter bear it, we would be as willing to do it as they. And we must let them know, that our case is the more to be pitied, because we were so like to be ruined and undone by a Prince, whom no honest man in the Nation did ever so much as desire should fall into those misfortunes that have overtaken him; but on the contrary, were extremely afflicted to see a fatal necessity of the ruin of either King or Kingdom in a very short time; and would most willingly have contributed our utmost to the preventing of it, had it lain in our power. But this is the misery, the more pains men take to palliate these things, the more still it appears there was a wilful, fixed and unmovable Resolution of driving these things to the height.

Jesuit made Minister of State.

For while it's said, That the late King being very zealous for his Religion, and giving the Conduct of his Conscience to the guidance of men sworn to that Interest; we cannot wonder if their perpetual Sollicitations and unwearied Importunities highly prevail'd upon him to gratify their Desires, in which he was withal satisfied that he was doing God singular good Service: this very Excuse is our greatest Complaint. For was it not easy to divine what a Protestant Nation had reason to expect from a Prince altogether guided by those who had sworn their Destruction? And the very taking of these men into his secretest Councils was an open Declaration to the three Kingdoms, that their Destruction was at no great distance; for we know, and all the World knows, that such men as swarm'd about *Whitehall*, were employ'd in nothing more, than in contriving and projecting the utter Destruction of Heresy and Hereticks, as they account us all to be: And therefore had the late King *James* consulted either his own or his Peoples Safety, he would never have been so influenc'd by such men, nor given the least suspicion that he was so. But his making a Jesuit openly a great Minister of State, whose very being in the Kingdom was Treason; his entertaining publicly a Nuncio from *Rome*, the swarming of Priests both Regular and Secular of several Orders about him, cannot but shew that their Assumption into such Privacy, so destructive to his People, was really a matter of his own mere choice.

And here let me add, That the Priests and Jesuits in their management of Affairs in the late King's time, were both the falsest and the foolishlest men in the world, tho they had the fairest game to play that ever men in their Circumstances could wish for before, and fairer than I trust they will ever obtain again. They were very false and treacherous to their great Patron and Benefactor; for they consulted their own Interest so much, that they minded neither the Honour nor Safety of their King. For while he was driving so *Jehu*-like, it was their duty faithfully to have represented to him what was like to be the issue of such Proceedings, what dishonour the so frequent breach of his Word must be, and how fatally dangerous the exasperating of three Kingdoms must be; and therefore seriously to have advis'd him to slower and milder methods, and to have declar'd their Satisfaction, that they had rather commit the great Design it self to the Divine Providence in methods more agreeable to the Genius of the Nation, than hazard his Majesty's Honour and Safety in such violent and harsh measures. But the truth of it is, they saw they had nothing to rely upon but the King's Life, and that was as uncertain

as any other man's; and therefore they were willing to drive at all furiously: For (say they) if we succeed, we have our aim, the day is our own; if not, we know the worst of it, we are but where we were, we can as easily retire to the Cells we crept from as we left them; but whether the King sink or swim, is the least of our concerns. And ah! that these Wretches had fallen alone, without drawing such a Prince into such misfortunes with them by their precipitate Counsels! Let this therefore be for ever another Instance of Popish Treachery and Falshood to their Princes; for these men always act as if they gloried in being the Instruments of the Destruction of Kings or Kingdoms, or both.

And as they were the falsest Men to their Prince, so they were the foolishlest; for never Men took so improper means to attain their ends as they did. In truth they left nothing undone, which any man could wish them to do, who never so earnestly wish'd a disappointment of all their Designs; as a Reverend Divine and Great Man of our Church said in his Sermon on the Thanksgiving-day, they were *Politicians by Book*, and never consulted the Genius and Humour of that People they had to do with. It may be they are thought very wise Men and great Politicians in other Countries, but they can never in *England* expect any thing but the Reputation of the most imprudent and impolitick of Men; and I hope this great Instance will be sufficient to convince all Princes, how unsafe it is for them to trust Men of little Honesty and less Discretion.

The Folly of K. J's Counsellors.

If it be again said, That the late King, in all these things so deservedly decried, was inform'd of the Legality of them by his Judges, whose Advice in the like cases all our Kings have relied upon; so if he erred, it was their fault: and besides, such as do unlawful things by the King's Command, are liable to answer for it notwithstanding, but not the King himself. To this the Answer is very easy: The whole Nation knoweth very well, that when the Judges at any time gave just and good Advice, according to the Law and the best of their knowledg, if it thwarted the Design intended, there was a *Quietus* ready at hand for their descent from the Bench; and thus the whole Reign of King *James* there was a perpetual Change of the Judges, till they were so model'd as to secure the Interest driven at; nay in the very last famous Trial of the seven Bishops, all know that two of the Judges were immediately remov'd, for giving their Opinion contrary to that Interest. So that it is extremely plain, the King was not advis'd by his Judges, but the Judges by him, how they should act at their perils, and he would have no other than such as would serve his Design: As for such as acted by his Authority, either in Civil or Military Affairs, it's plain few or none were allow'd of, but such as would serve the Popish Interest; what meant else the Change of Charters, the Regulating of Corporations, the so frequent Alterations of the Governours of them, the removing of all Officers that would not comply, the previous Questions put so diligently all over the Kingdom to Deputy-Lieutenants, Officers of the Militia, Justices of Peace, Magistrates of Cities and Boroughs, concerning Elections of future Members of Parliament? The King then was so far from suffering Persons to be brought to Trial for their unjust and illegal Actions, that as he would have no other Persons in his Service, so he avowed their Protection. In vain it was to expect a redress of these things, since even in the beginning of that Reign, when that King was so much oblig'd to the Fidelity of the Nation for opposing the Duke of *Monmouth* so vigorously, yet that very House of Commons, who but a little while before was so highly cajol'd and caress'd by the King, went away with a Repulse to their honest Address against Papists bearing Offices without legal Qualifications, and in a few days after he prorogued them, and never met them more. Since then the late King would have no other Persons to serve him, nor any in Places of Trust but such as highly disserv'd the Nation; since he protected such Persons in all their illegal Proceedings, certainly all they did is clearly imputable to himself, for so he would have it, and no otherwise.

The Determination of the Judges of no force against Law.

No redressing of Grievances expected.

In fine, while it's said King *James* was lawful King of *England*, accountable to none for his Actions, but God only; that all we had to do, was to submit either Actively or Passively; that our Oaths had obliged us against all Resistance of his Majesty, or those commission'd by him; and therefore let the worst be suppos'd that can be, we cannot justify our Reliction of him, or transferring our Allegiance from him.

The Pretences of the Jacobites,

Now in the first place this is a plain acknowledgment, That we had very great cause of complaining; and only helps us with this Accumulation of our Misery, we have no possibility of Redress. Now it's a desperate Condition a Prince is brought to,

Consider'd and answer'd.

to, that the only Justification of his Proceedings consists in asserting an unlimited and uncontrollable Power; and indeed it is much worse, when this is done to a Nation that never have, nor ever will acknowledg themselves to be Slaves, to be rul'd by the Arbitrary and Despotick Power of their King; but are Subjects govern'd by their King in the Execution of the Laws of the Land.

*Actions
that dis-
solve the
Govern-
ment.*

Again, there is nothing more certain than this, That there is so great deference to be had to Governours and Government, that every small Irregularity in Government ought not to lessen the Affection or Fidelity of Subjects, such as Injuries accruing only to some private Persons; or if they be of a publick and general nature, yea even against Laws in force, yet if it be in matters of small concern and importance, it is rather to be born with, than the Peace of the Government to be disturbed: It is in such Cases duly to be considered, that nothing perfect is to be found under the Sun; that Changes and Alterations upon such small accounts, would render Government very unsteady and uneasy to the main end of it, which is the Peace of Mankind. But what if the Case be such, that there is no less attempted than the ruin of Souls and Bodies, and Fortunes of far the greatest part of the Subjects? What if those Laws are laid aside, and rendred useless, which were enacted on purpose to secure the Religion and Property of all the Subjects, without ever consulting the Legislative Power, nay after a great part of that Power hath remonstrated against it? What if such Courses be taken, as perfectly destroy the very Being of Parliaments, and make a summoning of them utterly impracticable, according to the fundamental Constitutions of the Kingdom? Do not these, and such like Proceedings, perfectly dissolve the Government to our hands, and deprive the King of the best Security he hath for his Crown, to wit, the Security of the Laws so dissolv'd? And that this was our Case, is apparent by what is before written. And this brings to my mind a Saying of the late King *James*, at his first Accession to the Crown, *That he desired to be no greater King than the Laws of England made him*; and upon my Conscience had he continued always in that mind, and acted accordingly, he might, nay he would have reign'd a glorious King, to the great Joy and Satisfaction of all his Subjects.

*End of all
Govern-
ment is the
Protection
and Secu-
rity of the
People.*

I suppose it will be granted, That the end of all Government is the Protection and Peace, and Security of the People, by governing them agreeably to the Laws enacted for that end: Now if this End cease, and all things be acted contrary, is there not an end of that Government, with relation to the Peoples concerns in it? And in such case, what can reasonably be expected from them by the Laws of God, of Nature, and Self-preservation, the first and great Principle of Nature, but that they should look for better Terms where they may have them?

*The Pre-
tence of Ju-
re Divino.*

All this whole matter is grounded upon a false Opinion of Government being *Jure Divino*, even with relation to the Species or Kind of Government, nay to the very Person or Family regnant; than which there cannot well be a greater Paradox: for tho it be most true, that Government in general is of Divine and Natural Right, yet all the World will never be able to make either of these two things appear, viz. either that this or that Species of Government is of such a right; for example, Monarchy in contradistinction to all other; or much less, that this or that Family or Person hath such a Divine or Natural Right to such or such a Kingdom or Dominion: for upon this Principle we condemn all other kinds of Government as sinful; we oblige our selves to perpetuate the Succession of the same Family in a direct Line in the same Dominion, a thing by the experience of all Ages known to be impossible, and of which this Kingdom, on several occasions, hath taken very little notice. For he is a mighty stranger to the *English* Histories, who knows not that some Persons have been removed from the Administration of the Regal Power by the Authority of Parliament, and others crown'd in their stead, while the former were in being: and likewise in the Succession of the Crown little regard hath been had to the next in Proximity of Blood, whatever outcry we make now; and certainly when it was enacted in Queen *Elizabeth's* time, That it should be a *Præmunire* for any Person to affirm, That it was not in the power of the Parliament to settle the Succession of the Crown, they were far from dreaming of this Chimera of Divine Right. And certainly when a Parliament in *Henry the VIIIth's* time gave that King Power to settle the manner of the Succession, and to nominate the Successors as he thought fit, they were far from this Divine Right too. Nay, this Opinion that men would so fain impose upon us, is destructive of all Right of Conquest or Prescription; for against Divine and Natural Right none of these are prevalent: for still the former Obligation remains to the kind of Government and Family

*Instances in
History to
the con-
trary.*

Family pleading such a Divine Right ; which would be so far from conducing to the Peace of Mankind, the great End of all Government, that it would certainly perpetuate Blood, War, and lasting Confusions.

In a word, I am sure our Government is such as will acknowledg, That the Kings of *England* are bound to govern their People, not as they please, but according to the Laws of the Land.

Now I would fain ask these few Questions upon this Concession : Whether it be just Inconsistencies in the unlimited Power pretended to. that the King should be absolutely secur'd by the Peoples Oath of Fidelity to him ; and if they break it, Gibbets, Axes, Whipping-posts, Pillories, Exile, Confiscations of Goods, are their just and deserved Punishments ; and yet the People should have no Security in the Earth by any Oaths the King makes to them, but he is still at his Liberty to break them, and the People without all possibility of redress if he do so ? And consequently, Whether the Coronation Oath be a mere Matter of Form, and administred only to mock God and the Nation ; since after all, the King may at pleasure break it, and the whole Kingdom hath no Remedy but *God help* ? Whether when Christ and his Apostles prescribed to us general Rules of Subjection and Obedience to Government, they did not leave the several Nations in the possession of those Civil Rights they enjoy'd notwithstanding, but engag'd Mankind to be all Slaves to the Lust and Will of their Governors, without possibility of controul ? Whether any acting in this Kingdom by an illegal Commission, can possibly be esteemed to act by the King's Commission, which we are sworn not to resist ; since it's certain that all illegal Commissions are null and void in themselves, and that Men are bound to resist such in their own defence ; since the Subject is never to suppose any private Will of the King in the governing of his People, contrary to the publick Will of his Laws ; and is always to be supposed, that he who takes upon him the just defence of the Laws, is so far from resisting the King, that he is really defending of him ? If the Case be not thus, then we certainly are commanded to swear, and actually do swear, to expose our Persons, Families, Fortunes, Laws, Liberties, nay Religion itself, to as many mens Wills as may have the Conscience to act against us, or ruin us in any or all these Particulars by illegal Commissions. In fine, Whether the King's being generally said *to do no wrong*, be not to be interpreted, either because he most commonly employs other Persons in the execution of his Commands, either legal or illegal ; or else in respect that the King being sworn to govern by Law, he is not to be supposed to act against it ? If the first, then they that execute illegal Commands, are liable to be called in question, and punish'd for so doing ; but if the King protecting them with all his Power prevent this Justice, doth he not then make these illegal Executions his own whether we will or no ? If the second, then we are to conclude, That no illegal Act is a regal Act ; and consequently if a King, either by himself, or by others commissioned by him, oppress and ruin his People in all particulars that are of greatest concern to Mankind, he so far unking himself, and puts his People upon an absolute necessity of Self-defence.

As for the lawfulness of transferring our Allegiance to their present Majesties, the Reverend Bishop of *Salisbury*, in his excellent Letter to his Clergy, hath so fully cleared that Point, that it were presumption in me further to undertake the defence of it.

Let me only add, That the late King shewed the most fixed Resolution in the The lawfulness of transferring Allegiance when the Throne is deserted. World by his going to *France* : for what was this, but rather than suffer any Redress of the insupportable Grievances of his People, he would forsake and abandon them, and apply himself to the sworn Enemy of his Kingdoms, both in their Religious and Civil Rights ? King *James* sent to the Prince of *Orange* some Noblemen to treat with him, but had not the patience to stay long after the Answer ; but rather than listen to the calling of a Free Parliament, withdrew himself voluntarily when no Enemy was near him. His coming back again to *Whitehall* was a mere force put upon him ; for at *Feverham*, when Persons of Quality in those Parts tendred him their best Service, his constant Answer was, *The most acceptable Service you can do me, is to facilitate my departure, and to procure means for my going beyond Sea.* And whatever noise is made about his leaving *Whitehall* the second time, yet it's plain his Resolution was still to depart, as a thing he was before most solemnly engag'd to do ; and so to leave his People, rather than enter upon fair and legal ways of giving them satisfaction. And this the Lords and Commons in Convention, as freely chosen as ever Representatives were to any Parliament in *England*, have avowed to be an *Abdication of his Government*, and *Vacating of his Throne*. And I would know but these two things in this Particular, Whether

in the condition we were left by the King's departure, any better, juster, or speedier course could be taken to save the Nation from those Miseries and Confusions it must necessarily have fallen into, in that state of Anarchy the King left us, than that of calling such a Convention? And then, Whether such a Convention, so freely called and chosen, when met, doth not conclude the Nation by their Resolutions, since all knew their Election was for this very purpose, to restore us the happiness of a settled State, and by electing of them, included Themselves and their Consents to their Resolves, as much as ever they did in other Elections to Parliament. As for those Redresses that were made just upon the news of the Prince's Intention for *England*, they were done at such a time as too plainly shewed it to be the product of Fear and Necessity, not of Choice; and it's well known, that what Kings in straits are forced to do, when free, they voluntarily and readily undo: and the worst I wish King *James* is, That what he did then, he had done a twelve-month before; tho even then the greatest Matters continued as they were, viz. Persons in all Offices of Trust without legal Qualifications, by virtue of the Dispensing Power, then not in the least disowned.

No hopes of
Redress
but by the
Pr. of O's
coming o-
ver.

By what I have said, it plainly appears, that our Condition, when their Majesties arrived here, was most deplorable, without any hope of a Redress, our Miseries daily growing upon us; and it's not uneasy for any Man to divine what our Case must certainly have been, had not God raised up this mighty Deliverer, our present King, to put a stop to those unhappy Proceedings. And if we be so insensible of this great Deliverance, and so soon have forgot our former Thralldom, and our just fears of worse; I can say no more, but that we are as bad as the *Israelites*, desiring *Egypt* again, when their Faces were towards *Canaan*; and lusting for the Flesh-pots there, when they were feeding on Angels Food. And so I come to shew the danger of our Relapse, by considering the happy Estate and Condition we are in by this blessed Revolution.

We may take up in these Nations that Song of *David*, *When the Lord turned again the Captivity of Sion, then were we like unto them that dream.* The Deliverance was so strange and wonderful, that it appeared plainly the Lord's doing, and therefore marvelous in our Eyes. We may look upon the Providence that gave the Prince of *Orange*, our now most Gracious King, so just a Right to succour us, as wonderful, even that happy Day wherein the auspicious Marriage of that Royal Pair was consummated, to the great Joy and lasting Security of the Peace and Happiness of these Nations. This was, I am sure, a great Earnest of the Divine Goodness, and a happy Omen of this blessed Fruit of it.

Advanta-
ges secur'd
to us by the
Revolution.

I know not what to admire most in this prodigious Deliverance: That a Matter of so great Importance, that must of necessity be communicated to several Persons both at home and abroad, should take no Air till just ready to be executed, so that the Deliverance was sudden and unexpected, no ways look'd for at that time, or in that manner, is scarce to be exemplified; the means used to effect this Design, being so unproportionate to the great End designed, makes the Success a Prodigy. The extent of this Blessing is not the least thing considerable in it; it is general to the whole Nation, every one shares in the Deliverance, except those that would fain have made us miserable. For as the Religion and Civil Interests of all were equally in danger, so the Security of both is extensive to all: Nay this Revolution secures Truth, and the Profession of it to other Nations; for it's well known what Hazard the Protestant Religion every where had been in, had it been subverted in this famous Island. And therefore, however ungrateful we may be, who yet have the more immediate advantage of it, yet I am sure all Protestant *Europe* are lifting up their Hearts, Hands and Tongues in the Praises of the God of Truth, who hath so signally appear'd for our Deliverance, and in that for their Security.

Sad Condi-
tion of Af-
fairs before
the Revo-
lution.

Let us look upon our present Condition; Would we be content to be happy, and compare it to what we were a Twelve-month ago? then we were almost in despair, sadly thinking with our selves to what strange Countries we should repair to avoid the impending Storm: Our Bishops were thrown into Prisons, our Clergy threatned with Deprivations and Suspensions, our Universities pursu'd with *Quo Warranto's*, our Colleges invaded by the Locusts of *Egypt*; the Abomination of the Mass, and Idolatry and Superstition of Popery set up in all the corners of City and Country; our Judges carrying about Shavelings to preach before them in their Circuits; and they themselves in their Charges at Assizes, preaching Sermons of Transubstantiation, and Submission to the See of *Rome*: Protestants discountenanced, discarded, disgraced; Papists every where, in City, in Country, in Court, in Armies, in
Forts,

Forts, in Navies, in Corporations, in Counties, lording it over us: Parliaments intended us, worse than none; the Compleatment of our Miseries being expected from them, as Elections were then ordered; which made all good Men wish from their Souls, That whatever our Condition was, or might be, yet we might never see a Parliament sit in *England* during King *James* the Second's Reign; since they would never be suffer'd to do us good, and in all probability could not fail in doing us much harm.

The Case is quite alter'd now, as is obvious at first sight: Our Religion hath the greatest Security, our Bishops and Clergy the greatest Protection, our vacant Bishopricks are fill'd with the most wise and learned of the Clergy, Colleges are restor'd to their proper Owners; the Idolatry of Popery dare not shew it self any where; the Wind hath blown these Locusts of Priests, Jesuits, &c. beyond the Seas, to their former Lurking-places; every one sits safe under his own Vine, enjoying securely the Liberty of an *Englishman*, the Property he is possess'd of: our Councils, Navies, Armies, Magistrates, are Protestants; and a Security to our Religion, dearer to us than our Lives: Our Judges are as at the first, and our Counsellors as at the beginning.

Security of
Religion.

Pray, Gentlemen, recount with your selves, What was our greatest Hope, our only Comfort on Earth, in those Days of our Distress? What was it that sustained our Spirits, and delivered us from utter Despair? What did we discourse of every where to one another, as the sole Foundation of our hopes of Freedom and Relief? Was it not that the King was a mortal Man, and after him we had a Reserve of the Prince and Princess of *Orange* for our Security? How often then did we cast our Eyes and Hearts upon the *Belgick* Shore, trusting that at last the Providence of God would waft over that blest Pair to the lasting Joy of this *British* Island? The Papists knew this very well, and could never think themselves safe, till these Princes Interests were defeated, and thereby as they thought all our Hopes frustrate. But God, that brings Good out of the greatest Evil, by his infinite Wisdom and Power, converted that Project by which they intended to perpetuate the Slavery of these Nations, to an accelerating or hastening our Deliverance sooner than ever we hoped for it: for never was there a juster Cause given any Prince to quarrel with a Possessor than was given the Prince of *Orange*, when he saw not only all our Laws violated, and the People of *England* enslaved, but likewise his just Interest in the Crown, in Right of his Princess the immediate Heir, so violently invaded, without any Satisfaction given, usual in such Cases, of the sincerity of that Affair of the pretended Prince of *Wales*; in which not only this whole Nation was violently suspicious, upon very good Grounds, but likewise the intended Fraud was the discourse of *Europe*. This Matter hath been sufficiently written of, and for my part if there were no more to create a Diffidence in me not possible of receiving any Satisfaction, this would be more than sufficient, that I never heard of any Satisfaction given to the great and virtuous Lady the Princess *Ann* of *Denmark* in this whole Affair; and yet it was highly just she should have received it in respect of her Proximity to the Crown; and likewise in regard of that fruitful Womb God hath been pleased to bless her Highness with, whose Children have a very fair prospect to the Royal Inheritance: It had been likewise very easy to have done it, because her Highness was perpetually upon the very place where the Scene was acting, just till the time of its finishing, and then it was most necessary she should have been there: and it's impossible to imagine, had it been a real thing, but care would have been taken that she should have been present; but on the other hand, if it was not real, it was altogether necessary that of all Persons she should be out of the way, and such care was accordingly taken: And as her Satisfaction was both just and easy, so it would have been of mighty advantage to the convincing of the Nation of the Truth of it, her Highness's Evidence would have been of more weight than all those at Council-board, in respect none will bear witness against their own Interest, especially in a Matter of so great moment, unless it be very true. All the Answer ever I could hear to this most material ground of Suspicion is, either that there was no Obligation to give any such Satisfaction, or that the Princess did not desire it, and was not curious of being satisfied. To which this is only fit to be said by way of Reply, that the first is a desperate, and the second a senseless Answer. Is it not then a great Favour of God to us, that the Deliverance we so earnestly wished, and the Persons on whom our Eyes were fix'd, are thus come to our Deliverance? our very Enemies hastening it sooner than ever we looked for it.

Exhortation to consider what we were and are now.

Happiness
of England
in having a
Protestant
King and
Queen.

Is it not the Joy of all good Men, who love the Prosperity of our *Sion*, and pray for her Peace, to see a Protestant King and Queen in *England*; a Happiness *Britain* hath not been favour'd with since the Death of Queen *Ann* the Wife of King *James* the First? We have no *Dalilah* in the Bosom of our *Sampson*, to allure him to betray his own and the Nation's Strength, that we may be the easier Prey to the *Philistines*. The marriage of our Kings to Ladies of the Popish Persuasion, hath been so plain a Cause of the Nation's Misery, that we have great reason to rejoice in so happy a sight, as both King and Queen to be of the same Religion, and that which is the professed and establish'd Religion of their Kingdoms: And it's greatly to be hoped, the Wisdom of our Parliament will make it no small part of their Care to prevent the Mischiefs that have so constantly attended our Kings being so unequally yoked. Our King and Queen draw not now several ways, their Principles are the same; as they are in Bed and at Board one, so it's our great comfort to see them repair to the same Churches, exercised in the same Devotions, addressing to the same Altar; in a word, of the same Faith and Religion, to the great encouragement of their Subjects to follow so pious and great an Example: so that there are no hopes now of the *Philistines* plowing with *Sampson's* Heifer. The Royal Interest is now absolutely the same with that of the People; for their Majesties and their People are more surely tied together by the Bonds of that Religion, for which both have an equal Zeal, than by any political Obligations whatsoever: so that now both rejoice in the mutual Prosperity of each other, their Majesties rejoicing in their Peoples Security, and they again in the Royal Protection, as in all things, so chiefly in that which is the best of all things, Religion.

Neither are we to neglect the consideration of that which deservedly makes his present Majesty the Darling of these three Kingdoms; nay, like another *Titus*, the Delight of Mankind, viz. that the King, the Prince of *Orange*, had no such great Matters to look for as to his own Interest, to move him to encounter so great Dangers, to undergo so much Trouble. He was considerably great in the *Low-Countries*: He hath no Children to enjoy the Crown after his own death; so that it plainly appears his Zeal for Religion, his great Concern for the bleeding State of these Nations, his love to Justice did much more prevail with him to this Heroick and Glorious Undertaking, than any Concern of his own in the Case.

Ingrati-
tude in de-
spising so
wonderful
Favours.

Now upon the whole, If we despise so wonderful a Mercy, and become so bereft of Reason as to be weary of Happiness, and court perpetual Slavery, and abandon our present Security and Tranquillity, for those Miseries we have reason to look for upon such an unwise change: What can we then expect but to be treated by God as the despisers of his greatest Goodness, and to perish without so much as the pity of Men; since we knew not how to prize a lasting Security, when we had it in our Hands, and consequently that our Relapse must be very miserable to us?

But if at last we propose to our selves the Miseries that must unavoidably fall upon us; if the Sins of this Nation so provoke God, as to bereave us of that Happiness we now enjoy, and if we be wise may entail it upon our Posterity, by another Revolution some Men so eagerly desire, we cannot but be convinc'd that a Relapse is highly dangerous. I do profess, that the Calamities that fatally attend such a Revolution, are so tremendous and horrible, that the very apprehension of them cannot but strike considerate Men into the greatest Confusion and Amazement: We can expect nothing else, but that our Miseries should occasion our being a Proverb and a By-word, a Hissing and Reproach of Popish Nations who gape for our Ruin, and greedily thirst after our Destruction; and on the other hand, that we should be followed with Execrations and Curses from the Protestant World, for so treacherously betraying that Truth we had so great a Zeal for; that a Nation that gloried so justly in being accounted the Bulwark of the Protestant Religion, should so fatally occasion the total overthrow of it.

Unavoida-
ble Mis-
chiefs at-
tend a Re-
lapse.

I will but briefly recount some of those Mischiefs that any reasonable Man cannot but apprehend must overtake us upon such a Relapse, if we consider with what Rage and Fury, with what thirst of Revenge, not only the late King (whose natural Temper doth not much dispose him to a forgetting of Injuries) but all of the Popish Party must return amongst us, what are we to expect? Is the late King ever the less a Papist than before? Hath he abated any thing of his Zeal for that Superstition? Have the Jesuits, &c. any other Sentiments of us and our Religion than they had? Ask the Protestants of *Ireland*, and they will inform you, who fly as fast out of that Kingdom as ever the *French* Refugees forsook *France*. If we were so unjustly

unjustly us'd when we had given no Offence, what are we to look for when the worst of Crimes shall be laid to our Charge? If our Religion was near lost, our Laws and Liberties invaded, when all the Obligations of the Earth were upon the Prince to protect them; how utterly must all be lost, when the Resentments of so late Affronts shall expose us to all the direful Effects of an ungovern'd Zeal, and enrag'd Revenge?

But besides, how are we to expect that such a Revolution should be brought about? I am very confident *England* and *Scotland* will never be willing to afford so great a Strength as is sufficient for such an Enterprize; some hot-headed Men may assist a stronger Party from abroad, but they will never undertake it to do it alone. No, no, we plainly see it's an *Irish* and *French* Power must do this; thence Men, Money and Arms must come: this is so certain, that I do not believe any Man in this Nation so bereft of Sense, as to expect it any other way. And now what a Train of Miseries this Dragon's Tail draws after it, is not easy either to be thought or exprest: if ever such a dismal Calamity should befall us, we shall want another *Jeremiah* to write the Lamentations of our *Judah* and *Jerusalem*. I do not think that ever any Nation under Heaven was expos'd to a more barbarous Desolation, than this poor Nation must be upon such an unhappy Change. How hath the *French* King us'd his own Subjects, to whom by the Oaths of God, upon his Soul, he ow'd all Protection? And if so cruel at home, what are we Strangers to expect from his Armies, but all the Outrages that attend an insulting Conquest of an Enemy, who hath resolv'd our Ruin, and sworn the Extirpation of our Religion? If the cutting us off from being a People should be the price of it; what are we to expect, whose unhappy Connivance hath occasion'd all his Greatness, and whose Strength and Riches are the Shears that now clip his Wings, from soaring to that height of Universal Empire, he so vainly and proudly grasps at? And the Truth is, this is a great Misery, that upon such a Change the Crown of *England* is most likely to devolve, not from King *William* to King *James*, but from King *William* to King *Lewis* of *France*; which the great God of Heaven avert. We have heard of Princes spoil'd of their Dominions by that King, but never could hear yet of any Prince restor'd by him. Can it possibly enter into the Thoughts of any reasonable Man, that the King of *France* will employ his Forces by Sea and Land, and spend his Treasures in conquering of these Kingdoms, and then quietly deliver them up to another to possess? who himself labours so deeply of the Dropsy of enlarging his Dominions, that neither Faith of Treaties, Laws of Nations, Oath of God, nor the sense of common Equity and Justice could ever yet bind him, from making the most unjust Encroachments upon his Neighbours wherever he could. And this is the more to be consider'd, because it's very easy to believe that the Popish Clergy of *England* would be willing enough it should be so; King *Lewis* being more able to maintain his Conquest, than King *James* can ever be suppos'd to be to maintain his Possession, and their Security. And if the Popish Clergy may justly be suppos'd to become so indifferent in this case, it's easy to foresee, how the Laity of that Persuasion might be induc'd to a Satisfaction, since these so slavishly, and indeed so brutishly, hang their Consciences at those Mens Girdles; so that upon the whole, King *Lewis* is like to be the only Gainer. Altho I am far from thinking that they who make this noise amongst us, aim at any such thing, yet it is worth their while seriously to consider, whether it will lie in their Power to prevent or help it.

As for the *Irish*, their Carriage to Protestants in King *Charles* the First's Time, and now to the Protestants at this very instant, is more than sufficient to satisfy us what Measures we are to expect from them; their natural Barbarity, their constant Aversion to the *English* Nation, their Thirst after a Reprisal upon Protestants Estates, to make up the pretended Damages they have sustain'd; their ignorant and blind Zeal for a rooted Superstition, are too much to convince us, with what Intentions they must invade us, and what are like to be the Effects of their barbarous Cruelty. In a word, it's Papists are certainly to be employ'd to do this grand Feat, who will be sure to give the Protestants, that shall be so unwise as to assist them, the same Thanks that Queen *Mary* gave those of *Suffolk*; that the King of *France* hath given his Protestants, and that the late King *James* did so lately give the Church of *England*: they will find at last to their Cost, the Effects of that unalterable Maxim amongst them, *That no Faith is to be kept with Hereticks*.

But then how is it possible for us, without the highest concern in the World, to represent to our selves the Consequences of such a change, with relation to their present Majesties and the Princess *Ann* of *Denmark*? I am very loth to insist too long

What is to
be expected
from Fr.
Power and
Assistance?

Behaviour
of Irish
Papists to
Prote-
stants.

Calamities
attending
such a
Change.

long upon this, it's so extremely tragical: Is this the Gratitude we owe to the most magnanimous, courageous, and charitable Undertaking, that ever was, to rescue three Nations out of the Jaws of Popery and Slavery? Can we find in our hearts to expose our great Deliverer to so much Danger in his Person, and Ruin in his Fortune, who so readily ventured Life and Fortune for our Good? Can we so willingly deprive our selves of all our Hopes repos'd in these Protestant Branches of the Royal Family, as for ever to render them incapable of doing us any further Kindness, or affording us any farther Protection? Have we so little sense of the most stedfast Constancy, and the unmovable Fidelity of these great Persons, to the Religion and Interest of these Nations, which could never be biassed by the Authority of a King and Father, nor shaken by the violent Temptations and Assaults upon their Constancy? Who by their fixed Resolutions to adhere to our Interests, had the worst of Arts us'd to defeat them of their just Rights; for would they have but comply'd with the Designs projected against us, I dare say neither they nor we had ever been troubled with a Prince of *Wales*. Can we expect in another Deluge of Misery to have another Prince of *Orange*, so successfully and miraculously to draw us out of it? No, no, it's to be hop'd the Nation will never be prevail'd upon to incur the Guilt of such Ingratitude, to Persons we owe our Religion, Laws and Liberties to: We will never do that which will so justly expose us to the Censures of the World, and render us unworthy, in any Circumstances, of any Foreign Assistance, so utterly inconsistent with the Safety of those who afford it. In a word, we will be so just to our selves, as not to entail Popery and Bondage to our Posterity; for if we lose these great Persons, where can we fix our hopes of any Relief?

Can we likewise, without Astonishment, think upon the Condition of Lords and Commons in this present Parliament, in case of any such change of Affairs, without Horror? Have we chosen so many worthy Patriots to represent us there, only to expose them to the greatest Mischiefs? Have they been so faithful to resettle us in a most happy Condition, by securing our Religion, Laws and Liberties, to be left at last to the Fury and Malice of Popish Vengeance? Did the famous Nobility and generous Gentry of this Kingdom, venture all for the Security of the Nation, to no other purpose, than to lose Honour, Estate, Life and all, for their Zeal to their Religion and Love to their Country? Surely as we cannot but believe that this must be the Consequence of such an unhappy Change, with relation to the Nobility and Gentry of this Kingdom; so it's not to be doubted but that all *England* will conceive a just Indignation against such Ingratitude, and will apprehend themselves oblig'd to espouse their Interest cordially and unanimously, who have so wisely, and with so much Courage, secur'd to us all things capable of our utmost Esteem.

Danger of
ruining the
Protestant
Interest e-
very where.

In a word, when we seriously consider the great danger the Protestant Interest is expos'd to all over *Europe*, that nothing less is intended than the rooting out of that vile pestilent *Northern Heresy*, as the Enemies of our Holy Religion are pleas'd to call it; I hope we will think more than once upon it, before we contribute so highly to the utter Subversion of the Protestant Religion in general every where, as the cutting off these three Kingdoms from it must necessarily occasion. It's well known that these Churches of *Great Britain* and *Ireland*, and more particularly that of *England*, have been justly look'd upon as the Bulwark of the Protestant Religion in general; and therefore the Papists have us'd their utmost Fraud in undermining of her, and their utmost Violence in raising up their Batteries against her; assuring themselves, if they could but once gain this Bulwark, they would quickly and with much ease make themselves Masters of the whole Fort. It's well known, that the *French King* durst never have us'd his Protestant Subjects, as he both perfidiously and barbarously did, if *England* had had the liberty to have espous'd their Interest; and it was justly look'd upon as a wonderful thing, that the King of *England* should be declaring himself so much for Liberty of Conscience here, and yet on the other side of the Water, the *French King* should be using all sorts of Cruelties upon those of our Religion, wholly to extirpate it; and yet *King James* should never become their Intercessor, nor declare to that King his just Resentments of his acting so contrary to his constant Principles, especially when his using his Subjects so could not but strike all his own *English* Subjects into an Alarm, and put them upon sadly divining what in all probability was like to be their own Fate in time. Why have the Protestant Princes and States enter'd into so strong a Confederacy, looking upon their present Majesties as the chief Support of it, but upon the certain knowledg they had of a Design on foot to ruin them? And thus it may be easily conjectur'd, what must be the Danger of the Protestant Religion abroad, if *England* be

be render'd incapable of giving assistance to its Professors; nay more, if the Strength of *England* be made use of to promote their Destruction. But it's obvious this must be the result of the return of Popery and Slavery amongst us; so that upon the whole matter, if ever such a Judgment from Heaven should overtake us, as the return of this unclean Spirit of *Popery*, and its Usher *Slavery* amongst us, we cannot but expect that not only Seven, but a Legion of Miseries worse than we have felt must return with it, sufficient to make our last Case worse than our first.

The Case being so plainly thus, is it possible that Men can ever be in love with such Miseries as these, not only upon themselves, but upon their innocent Posterity? For the word is *Now or Never*, and *Now and Ever*. And that we may never feel the Mischiefs of the last part of this Sentence, I hope we will take care to secure the first, that because not *now* therefore they *never* shall prevail upon us. I beseech you, Gentlemen, who seem to be so willing to bereave us of our present Tranquillity, and to contribute what in you lies to bring a Deluge of Miseries upon us, in which you your selves must certainly be overwhelm'd, if ever you be truly zealous for, and faithful to the Truth of God profess'd in this Nation; I pray you to consider with your selves, that if your Desires should succeed, and you should be aiding and assisting to it, what late Repentance and Horror must seize upon you, while you shall sadly then, when it is too late, reflect upon that Destruction you have brought upon your Country and Fellow-Countrymen; and it's not to be doubted, but at last upon your selves too.

But if Men will continue obstinate in Mischief, and are resolv'd to use their utmost Endeavours to rush us again into Confusions, and to set all in a Flame; it's to be hop'd his Majesty will have such a special regard to the Welfare of these Nations, in which that of his own and all the Protestant Branches of the Royal Family is so closely wrapt up, that he will most diligently inspect the wicked Practices, and most villanous Designs of such ill-minded Men. And indeed they ought sometimes to bethink themselves, what the whole Kingdom must think those Men worthy of, who are Haters of their Peace, and Contrivers of their Destruction: for whatever Eyes they look with, and whatsoever Prospective-Glass they make use of, they must pardon us, who can see nothing but lasting Misery attending their Projects and Designs. And therefore however they may hope his Majesty's Clemency (which by their undutiful Language, bold and ungrateful Speeches, and insolent Attempts in the face of a Nation, resolv'd to continue their Happiness by most constantly adhering to his Majesty's Interests) they have already too much try'd; yet they are Fools to imagine his Majesty will suffer his innate Lenity and Gentleness to be the greatest Cruelty to his faithful Subjects, by extending it to Persons obstinately bent upon his and their Ruin: nor can they dream that a whole Nation, now secur'd of all that's dear to them, will much longer bear the bantering Affronts, and not only undutiful, but even treasonable Practices of such Men, who so carry themselves as if they long'd for nothing more than our Destruction.

The unaccountable
Obstinacy of
Jacobites.

And just as I was writing this, came to my hands that Paper, pretended to be a Declaration from King *James* the Second to all his Loving Subjects in the Kingdom of *England*. Perhaps there was never a greater piece of Insolence acted in any Nation, than dispersing of these in a Kingdom, where there is a King *de Facto* upon the Throne; and the Resentment the House of Commons has shew'd, is a sufficient proof of what I have just now said. But for the Paper it self, it carries all the Marks of Forgery that possibly can be: for would ever the late King tell his Subjects of *England*, of his kind usage to his Protestant Subjects in *Ireland*, who are so infallibly convinc'd of the contrary? For why should so many of the Bishops and Clergy, so many People of all Conditions fly out of that Kingdom even since his Arrival there, and leave their Estates and Habitations, and cast themselves upon the Charity of *England* for a present Subsistence, if this Libel were true? Why, even at this very time, do they embrace all Opportunities of transporting themselves into this Island with great Joy and Thankfulness? If Protestant Persons, Fortunes, Religion, were in so much Safety, what makes the Protestants of *Londonderry*, &c. rather venture their Lives in their own Defence, and endure the Perils and Hardships of a dangerous Siege, if the Protestants there were in so great Security? Surely the Forgers of this Libel imagine it possible to put out our very Eyes, and to hood-wink us to Destruction. Can we ever think that Protestants will be safe, or apprehend themselves so, where the *French* domineer, at the rate they must certainly be presum'd to do in *Ireland*? For it's very reasonable to conclude, that seeing Men, Ammunition, Money, and whatsoever is necessary for War, cometh

A touch upon
K. J's
Declaration.

cometh from the *French*, that King will, nay must rule the Roast. We will therefore believe our own Intelligence much better than this piece of Forgery, viz. that the very Papists of *Ireland* are so apprehensive of the *French* Tyranny, that they begin to wish for the mild Government of Protestant *England*, rather than lie under the insupportable Tyranny of Popish *France*. As for the large Promises made to *England* upon a Surrender these Forgerers invite us to, I have said enough already, that Popish Faith can never be more trusted by Protestants: and we are very well assur'd, that if it were possible for the Host of Heaven to come down upon Earth, to be Guarantee for the Fidelity of Papists to Protestants in any Treaties made with them relating to Religion, they would notwithstanding, upon the first safe Opportunity, violate them; and if these blessed Spirits should take upon them the Defence of the Guaranty and the Honour of it, they would presently disown their Patronage, and deprive them of the Honour of being their Intercessors, and charge them with being Favourers of the vilest Hereticks; for we would desire but one Instance wherein ever Protestants were us'd kindly by Papists, whenever it was in their power to use them otherwise.

*Applicati-
on to the
King.*

Go on then, Great Sir, in the perfecting of that which your Majesty hath so gloriously begun, and so magnanimously undertaken, and have had the assistance of the God of Truth, to the Joy of these Nations, to the Despair and Confusion of your Enemies, to the Security of the Protestant World: Your Majesty hath the Hearts, the Hands, the Purses of your People at your Devotion; You have a Parliament, who having engag'd whatsoever is worthy of Men of Honour, of Fortune, of Religion for your Assistance, will never be wanting to enable you to compleat Yours, Theirs, Ours, nay *Europe's* Happiness; You have the greatest Security of the Protection of that God, who is the Disposer of Kingdoms, by whom Kings reign, who hath hitherto blessed you with Success to a Miracle: You have, in fine, the best and most glorious Cause, even the preserving of these Nations (to which God, and Nature, and a general Consent of your People, have given you such a close Interest and near Relation) from all the Calamities that could befall either the Souls, Bodies, or Fortunes of us and our Posterity. This I am sure is the hearty Prayer of all that are Lovers either of our Civil or Religious Rights, and our secure, peaceable and lasting Enjoyment of them, *That your Enemies may be clothed with Shame, but upon your Head the Crown may long flourish.*

A Brief ACCOUNT of the Nullity of King JAMES's Title, and of the Obligati- on of the present Oaths of Allegiance.

THAT King James was King *de facto* is denied by none: That he had some ground of Claim by virtue of his natural Inheritance, is no less confessed; and that he might have answer'd the Ends of Government if he had made good his Promises, is on all hands acknowledg'd: all which might serve to justify that Allegiance which for the time was paid to him.

The great Question before us is, Whether those destructive Principles and Undertakings, which he afterwards openly espous'd, so much contrary to his Promises, did not render him incapable of the Government, according to the fundamental Laws of this Land?

That we may have a clear account of this Question, we need only enquire,

First, What are the fundamental Laws of this Land, with reference to the Power and Prerogative of the King, and the Liberties of the People.

Secondly, How great is the over-ruling Force and Obligation of them. And,

Lastly, What were the avow'd Principles and Practices of the late King.

From

From which Premises it will be easy to demonstrate, according to the known Constitution of the *English* Government, that a Person of such Principles and Undertakings must be utterly unqualified and incapacitated by the very fundamental Laws for the management of this Government.

A Person of K. J's declared Principles incapable of governing England.

First, That we may clearly discern what are the fundamental Laws of this Land, we may consider in general what are the fundamental Laws of all Government; and thence we may descend to consider more particularly what are the fundamental Laws of this Land.

As it is granted on all hands, that Government is establish'd by the Light of Nature; so there need no positive Edicts or Statutes to shew what are the fundamental Laws of it. But these are discernable by the Light of Nature; and upon these prime Laws of Nature, all positive humane Laws are superstructed.

As Nature has taught that there should be some Government, a Sovereign Power and a Political Head, in all Societies; so the same natural Reason has taught, that all the Essentials of this Sovereign Power, which may be call'd the *Regalia*, should therein be establish'd; and those Laws by which they are establish'd, may be call'd fundamental Laws.

Necessity of Government.

The Prime Essentials of the Sovereign Power of each Political Head, as the Holy Scripture intimates, *Eph. 4.* are the same in kind with those that appertain to the Head of a natural Body, which are, to prescribe Rules for the Direction of all the Members; to see that those Rules be put in execution; to examine and take cognizance of all Actions, and to give Sentence accordingly; to dispense by certain Nerves and Joints, the common nourishment for the sustenance of all the Parts; and to employ the Force of the whole Body for the common Defence.

Accordingly we find it is the Office of the Sovereign Power in any Nation, to prescribe in matters of Faith and Speculation (according to the Rule of God's Word) what Doctrines should be esteem'd as Orthodox, and what to be condemned as Impious and Heretical: Also to appoint such Ecclesiastical Officers, as might have Inspection over those that are to teach the same Doctrines: In matters of Practice to prescribe such Laws as ought to be observ'd in order to the Common Good: To appoint Judges and other Civil Officers, who might take cognizance upon all occasions of all Citizens and Members, who might give Sentence upon them according to Law, and by whom the said Sentence might be put in execution: To have the Power of the Militia, and to exercise the Force of a Nation for the Defence of it against Domestick or Foreign Enemies. Lastly, to command the Publick Revenues, to raise Taxes and Tribute, and to dispose the Wealth of any Nation for the common Support and Sustenance of all the Members.

The Office of one in Sovereign Power.

This is the account of fundamental Laws in general; by which all the parts of Sovereign Power are establish'd, *which are somewhere to be found in every Form of Government.*

Those may be said to be the particular fundamental Laws of any Nation, by which it appears in whose hands all the parts of the Sovereign Power are deposited, and in what manner it is to be executed; by which the Authority and Prerogative of the Prince, and likewise the Rights and Liberties of the People are declared.

Thus if we proceed to consider the fundamental Laws of the *English* Government, we may perceive they are fram'd with that happy Temperament as might be apt to render our Princes most glorious and honourable, and the People most happy. Our Good and Wise Ancestors have so dispos'd the Sovereign Authority, that our Kings should have no Power to do Wrong or Mischief, and they should want no Power to do good; the People should not be obnoxious to any unjust arbitrary Empire, and yet withal they should be sufficiently restrain'd from unbridled Vice and Licentiousness.

The Constitution of the English Government.

To this end it has been thought reasonable, that the whole Legislative Power should not be lodg'd in the hands of the King only; but the People require to be governed as becomes reasonable Creatures. And herein their Liberty does chiefly consist, that they can be obliged by no Laws but such as themselves approve and judge most meet for the common good. This is the prime fundamental Law, that the Law of God should be owned as supreme; that no Doctrines of Religion should be imposed, but such as the People may perceive, and by their Representatives acknowledge, as being conformable to the Divine Law; that the People should enjoy the safe possession of their Lives and Estates in such manner as the Law prescribes; that the Wealth of the Nation should be no otherwise dispos'd but as themselves allow by their Representatives in Parliament; and that Sentence of Law should be

People have a share in making Laws.

pronounc'd against them, not according to the sole Opinion of his Majesty's Judges; but with the joint Verdict of their Fellow-Subjects and Citizens.

*The King's
Prerogative.*

These are the prime Laws which concern the Rights and Liberties of the People. In respect of the Prince, it is his great Prerogative to enjoy all Power that might be useful to put these Laws in execution for the common Good and Happiness of himself and his People. To this end he has a Negative Voice in making all Laws, to be employ'd by the Advice of his Council appointed for that and the like purposes, lest at any time a licentious Faction should disable him to answer the necessary ends of Government. He appoints all Judges and other Officers, who are concern'd to execute the Laws in all Civil matters. He appoints those Ecclesiastical Officers, who are to execute those Laws which have reference to Religion. He has the disposal of all Arms, and the Power of the Militia for the defence of the Government; by which Power of disposing all the principal Offices Ecclesiastical, Civil and Military (if he approves himself sincere and faithful to his own and the Publick Interest and Honour) he cannot easily fail to establish his Authority so securely that he may command all the Force of the Nation for his Service.

But that it may appear, this Power of disposing all Magistrates was design'd purely in order to the Publick Good, all those Magistrates whom he appoints are sworn to execute their Offices strictly according to Law, tho it be contrary to the personal Commands of the Prince. The Law over-rules all those Commissions which he grants contrary to it self; and his Ministers shall be punish'd as Betrayers of the Publick Weal, if they execute any of his private Commands contrary to Law.

This is a short account of the Fundamental Laws of this Land, which are antecedent to all Statute Laws, the prime Branches of our Common Law; which are to be seen by the constant Practices, Customs and Usages in the Administration of our Government.

*The Authority of the
Laws consider'd.*

In the next place, if we consider the great Authority of these Laws, the very nature of the thing requires, that they should *over rule all other Laws*, which were made only to be *subservient to 'em*; by which the great Ends of Government are supported. Therefore the Harmony and Analogy of our Constitution requires, that all other Laws should be constru'd in a sense consistent and agreeable to these Laws. Hence it is confessed by Lawyers and Politicians, That the *Reason of State is the Rule and Measure of all Laws*. Upon this account it is declared, *That all Acts and Statutes shall be null, which are contrary to Magna Charta, cap. ult. & 42 Ed. 3. c. 1.* Tho that Charter contains only the principal heads of Caution against such Abuses as might tend to the subversion of these Fundamental Laws. For the same reason it is declared, *That the King can make no Act, which should tend to his own Disinheritance*; because it is supposed, the great Council of the Nation is called together, to consult of the best means to secure the present Government, not to reduce it to a Democracy. Therefore, whatever the Terms of any Statute may be, neither the King, nor that Council are supposed to design his Disinheritance.

And for the same reason, if the Members of Parliament, endeavouring to prevent Faction, should pass any Acts which might seem to *tend to the enslaving of the People*, such Statutes shall be so far null, or they shall be construed in such a qualify'd sense, as may be consistent with the Fundamental Laws; because otherwise this would be no less destructive of the Government than the former. And the People are supposed not to design any such change of Government, that their Lives and Fortunes be dependent purely at pleasure; but rather *that the Government should be dissolved, than that they should be obliged to accept such intolerable Conditions of it*. Which further appears, because not only they, but even the Princes themselves, have still acknowledged, that the Government has all along continued the same.

This is the account of the great Authority of these Fundamental Laws, by which the Rights and Liberties of the People are establish'd; by which the Power of the Prince is most happily directed and limited: *And so impossible it is, that any of our Princes should have any Right or Power but what they may claim by these Laws, that we have not so much as the Being of a Body Politick but by virtue of the same Laws*. Therefore the same Laws which bestow the very Essence of the Body Politick, do likewise prescribe the essential Qualifications of the Prince or Political Head of it.

From whence we may see, in short, the definitive account of an *English Monarch*, that he must be such a Legal Heir of the Royal Family, who is willing to exercise the Sovereign Power according to the direction of the Fundamental Laws, for the preservation of his own Prerogative and the due Rights of the People, in order to the

the Publick Good. And when by the constant Tenour of his Actions he makes it appear, that he is obstinately bent not to accept of such a Legal Power, he does thereby demonstrate, that he has renounc'd the Government, and has develtied himself of all Power and Authority.

Now if we consider, in the last place, the Principles and Undertakings of King James, nothing can be more notorious, than that he was averse to such a Legal Power, and utterly incapable of it: For he did declare himself a zealous Member of a foreign Church and Society, which were the declared Enemies of our Government; by whose Canons he was obliged to destroy our Laws, and root out all the Lawful Members of the Government, as Hereticks. He was obliged to change our Constitution, by virtue of which he enjoy'd his Power, to destroy our Laws, and with them our Liberty and Property, and his own Legal Authority, to make himself Absolute and Arbitrary, and all our Lives and Fortunes dependent upon his Pleasure.

K. J. his aversness to all Legal Powers.

So that we see, in Speculation, the Essential Qualifications of an English Monarch could not be found in him; his Principles were utterly opposite and inconsistent: and therefore it is self-evident, he was incapable to be the true and rightful King or Head of this Political Body.

Wants the essential Qualifications of an English King.

The same did appear no less evident in Practice than Speculation; for it is manifest in all his Undertakings, he went quite counter to the Fundamental Institution of an English Monarch. Instead of maintaining our Laws, he usurped a Power to suspend and null them: instead of preserving the true course of Judicature, he appointed such as were Enemies of the Constitution to be Judges, and Jurors, and Officers, to pass unjust Sentences upon the legal Members, and to execute the same. Instead of defending our Faith and Religion established by Law, he was resolved to obtrude another that was destructive of it. Instead of appointing Magistrates, Ecclesiastical and Civil, that should be duly sworn, and zealous to maintain the Laws of Church and State, he was resolved to constitute none but such as were the professed Enemies, or such as he expected would prove the betrayers of them, who should use all Arts of fraud and force to pervert the People and undermine the Laws. Instead of employing the Militia for the defence of the People, his enterprizes were notorious, whereby he endeavoured to enslave them. He accepted no Taxes in the ordinary course of Law, and to answer the ends of it; but waited an opportunity to make himself Master of all the Estates and Wealth of the Nation. In short, he was oblig'd by his Principles, and wholly bent in all his Endeavours, to destroy all the proper Regalia of the English Monarchy. His Actions did loudly declare, that he renounc'd all Authority allow'd him by the Fundamental Constitution. He depended altogether upon a Power which he expected to gain by force; upon which account he might be oppos'd in all such hostile Enterprizes, no less than any other open Invader.

Instances thereof in fact.

By this means we find the Legal Government did, for the time, expire. His Commands were in a Language strange and unknown to our Laws, to which therefore none were bound to pay Allegiance: His Magistrates, such as had no Union or Communion with the lawful Members of the Kingdom, which might not therefore be moved or acted by them; insomuch as the Body Politick lay, as it were, a lifeless Carcase, as tho we had been dissolved into an aggregate Multitude, having no common Interests, nor any proper Methods to pursue them by, reduc'd as it were to a state of Anarchy and Confusion.

His Legal Government is expir'd.

Therefore it must be concluded, That when he first embrac'd these Principles, he became incapable of our Legal Government, which he did therebvirtually renounce; and when he first made his Designs publick, he likewise made it appear how little Allegiance was due to him.

No man can be invested with any Authority but by his own consent; and when it appears that he will not accept of that Authority which is consistent with the Constitution, he at the same time disclaims all those Prerogatives that are annex'd to that Authority.

No Authority without one's consent.

If our Fundamental Laws require themselves to be observ'd beyond all other Laws, they must needs invalidate all such Pleas as might be brought from any other Laws in the behalf of such a Person, which might prove destructive of themselves; they can no more bestow or approve the Government of such a Person, than they can require or approve the subversion of that Polity which they establish, or Contradictions can consist together.

If a total Anarchy, or suspension of Government, be inconsistent with our Laws, much more such a Monarch, who will not only not execute, but is resolved to cancel them.

Absurdities.

It is impossible to conceive an attempt of a more publick Robbery or Tragical Mischief than this; That one man should make himself Master of the Lives and Fortunes of a whole Nation, which he should by his Principles be oblig'd to destroy.

This is so great a Change, or rather Destruction, of our Government, as nothing could be greater. If a Duke of *Venice* should go about to make himself a Legal Monarch, to establish the Government in his Family, to be administer'd according to Law; the Change had been insensible in comparison of this, when a free People are wholly enslav'd, and are made Tenants at Will for all their Goods and Possessions. If it would be lawful to defend the Rights of the Republick against the Usurpations of the one kind; it would be much more so to defend our Rights against the other, which are far greater.

And so far is this Change from being feign'd, that our Enemies did not only project our ruin, but rather did openly triumph in the expectation of it.

The Conclusion of the Argument, viz. that K. J. is incapable of governing according to Law.

From all which we see the demonstrative Evidence of this Argument: Whosoever lives amongst us, cannot but know our Fundamental Laws and Customs, which by no means allow, but cancel that usurp'd Power and Authority of any Prince which is not directed by Law. And the same Persons cannot chuse but know the Principles and Undertakings of King *James*, that he did utterly disclaim such a limited Power, as being insufficient to answer his ends: And the Conclusion is contain'd in these self-evident Premises, That since he would not accept of such a Power, he could have no other Power or Authority, according to our Constitution; and consequently he could be no legal or rightful King, and therefore his Title must be utterly null and void.

That our Laws might make it appear more expressly, that such a Person is incapable of the Government, they have declar'd without all exception, That all such as revolt to that Church, which is our profess'd Enemy, shall be esteem'd as Traitors and Outlaws. And it would be strange, that any Person should be capable to become the Head of the Body Politick, who by virtue of those Principles was so utterly cut off from all share of Communion and Society in it, that according to the sense of our Laws he became incapable to enjoy any Privilege as a common Member of it.

We see how excellently our Constitution is fram'd, which requires, that the Laws of God should be apply'd to our particular Circumstances; and as each Member is concern'd for the Interest and Happiness of that Society to which he appertains, so they are all oblig'd in their several Stations to maintain the same Government, for the Honour of God, and the Good of the People: and therefore in cases of extremity they may use those means which are necessary for that end.

Laws of God and Nature oblige to self-defence.

If there had been no Law for that purpose, yet the Law of Nature gives every Regular Government a right to defend it self against all the professed Enemies of it.

It is a Maxim of our Law, That the Laws of God and Nature should take place before all other Laws: the same Law of Nature teaches, That he can never be capable to be the Head of any Society, who cannot imploy the proper Offices of the Head for their due ends, but is oblig'd to pervert them to quite contrary purposes. Such a Society is to all intents and purposes destitute of a Governour, when he who usurps that place neglects to afford those necessary Assistances that are due from him. But the case is yet far worse, when such an Enemy challenges the Power and Trust, which belongs only to a Guardian and Father, and who thinks it his Duty to ruin those whom he ought to protect and defend.

K. J's incapacity to be a legal King.

Since therefore it appears, that there was an utter incapacity in the Person of the late King to become the legal rightful King of this Realm, and such an Incapacity as was grounded in the Laws of God and Nature, in the Fundamental and other Municipal Laws of this Land: Hence it follows, that none of these Prerogatives, *not to be resisted, not to forfeit, not to be depos'd* (which by the Laws of God and of this Land do seem plainly to be annex'd to the Persons of all our true and rightful Kings acting legally, as the Church of *England* ever has and does still teach) could any way in conscience be accounted due to him, who did not only grossly abuse, but quite endeavour'd to destroy the true legal Power of an *English* Monarch. And therefore

therefore so soon as his dissembled Incapacity was discover'd, the Nullity of his Title might appear to have been from the Beginning. And consequently since there can be no *Interregnum*, the Right must descend to such as were qualify'd according to Law, who with the Consent of Parliament may dispose of the Regal Power in such a manner, as might seem most useful for the Publick Good. And if our Allegiance thus appear to be due to 'em, it ought to be declar'd in such manner, and by such Oaths as the Law appoints.

*A DIALOGUE between Two Friends,
a JACOBITE and a WILLIAMITE, occasion'd
by the Late Revolution of Affairs, and the Oath of
Allegiance.*

Jac. **M**Ethinks we live in an Age of Wonders, *Africa* like, every day producing *aliquid novi*. But few months since Suspension, Degradation, Imprisonment, was too little Punishment for refusal to read the King's (as 'twas stil'd) Gracious Declaration for Liberty of Conscience; and now I am as much disaffected to the Protestant Cause, for making some Objections against the Oath of Allegiance.

Will. 'Tis true, the wonderful Revolution of a few days is so unfathomably stupendous, that an ordinary Capacity may easily be induc'd to believe, that Miracles are not yet ceas'd. Such signal Methods compassing such an unthought of Rescue, loudly declare they are more than common. And your obstinate refusal of a Deliverance written in such legible Characters, your voluntary depriving your self of a share in so great and unparallel'd a Blessing, is a second wonder to me incomprehensible.

Jac. 'Tis not, I protest, from an affected Singularity, or a too high Conceitedness of my own Opinion, that, like *Athanasius*, I oppose the whole World by my self. The only reason is, that I may keep a Conscience void of offence both toward God and Man. I acknowledg the Prince of Orange has been the great Instrument of our Deliverance from Popery and Arbitrary Power, and more highly deserves of the Nation than can be express'd; yet I cannot forget those Ties and Obligations that fix and rivet our Allegiance to our Dread Sovereign James the Second.

Will. What are these strong and binding Obligations?

Jac. In number ten thousand, in nature superlatively obligatory.

Will. Descend to Particulars, and nominate one.

Jac. The Dictates of Nature bind me to Natural Allegiance; being by Birth a Natural Subject to the King of *Great Britain*, my Duty is to pay Homage and Obedience either Active or Passive to all his Commands.

Will. I readily grant, that as you are a Subject to the King of *Great Britain*, his Majesty hath an undoubted Right to challenge your Obedience: but the ground and reason of this Right does not proceed as an Emanation from Nature, as I shall immediately evince, when I have gotten a right sense of your Notion of Passive Obedience.

Jac. By Passive Obedience I understand a submissive and patient suffering the Punishment due to the obstinate refusal of Actively obeying those Commands and Injunctions of my Superiors, that are either inconsistent with or opposite to the Laws and Precepts of the Divine Creator.

*Nature of
Passive
Obedience
discuss'd.*

Will. Patience under Punishment, when legally inflicted upon us, and there is no lawful way to escape it, is a Christian Duty, as is clear and obvious both from the Doctrine and Example of our Saviour, who despis'd the Shame and endur'd the Cross.

But

But if Passive Obedience, as you interpret it, be Sense, Logicians are much mistaken in affirming ten Predicaments; since in your account *Actio* and *Passio* are one. Obedience (in all Histories, whether Sacred or Profane) has no relation to suffering, but always signifies the doing things commanded. Thus *Exod.* 15. 26. *If thou wilt hearken to the voice of the Lord, and do that is right in his sight.* *Exod.* 24. 7. After *Moses* had read the Book of the Law, the People promis'd their Obedience to do all that was there injoin'd them. And *1 Sam.* 28. 19. King *Saul* for not doing the Command of the Lord was stigmatiz'd with the infamous Character of Disobedience, notwithstanding his suffering the Punishment of his Transgression. *Acts* 5. 29. The Apostles affirm they ought to obey (that is *Do*) the Will of God rather than Man. And all those express and positive Commands for Wives, Children and Servants, to obey their Husbands, Parents and Masters, only import, 'tis their Duty to please them well, by doing those things enjoin'd by them.

In opposition to this, Passive naturally implies suffering the Penalty for not doing; so that should we allow such a contradiction in Speech as Passive Obedience, 'twould naturally follow, that those who have suffer'd the Punishment of the Law, are justified by the Law: for if suffering renders men obedient, the Penalty being endur'd, they are cleansed from their Guilt, and become immaculate. And by virtue of this Argument, Rebels, Thieves, Murderers, or the worst of Villains are (after they have receiv'd the Reward of their Transgressions) as honest Men, as good Neighbours, and as loyal Subjects as your self.

I know 'tis objected that Rebels, Thieves, &c. are actual Transgressors of the Laws both Human and Divine, and so fall as Criminals; but the others suffer because they refuse to violate or transgress those Laws. But to this 'tis replied, that according to your own Position they are Criminals alike; for the Doctrine of Passive Obedience (especially as by you defin'd) doth sufficiently evidence (notwithstanding what you talk of Laws) that the Will of the Supreme Magistrate is the chiefest Rule we are to walk by; for whatever Command brings with it Authority to require Obedience, that very Authority doth plainly impress upon it the Character of a Law. Now Criminals, upon the account of Omission, are equally guilty with those that have render'd themselves so by Sins of Commission; it being equally the same, as to matter of Crime, not to do those things commanded, and to act or do those things prohibited. So that by parity of Reason, if the one be justified so will the other; for *facinus quos inquinat, æquat*.

Jac. I had no design to enter into a Controversy about Passive Obedience; I asserted that Nature enjoin'd me to pay Allegiance to the Supreme Magistrate, and my Reason was, because I was by Birth a natural Subject.

Nature obliges none to Passive Obedience.

Will. That Nature obliges you to Obedience, is a great mistake; for she constitutes no Subordination among men: as we are produc'd by her, we are all Equals; she ordains neither King or Peasant, Lord or Slave: her Actions are only internal, such as respect not those outward Adjuncts or external Qualifications. The Laws she designs for our Guide, are her own Precepts; viz. those innate Notions of Good and Evil, those common Sentiments of Virtue and Vice that are proper to all men, as they are rational Creatures. The Governour she appoints over us is every man's own Reason; the Judg, our particular Consciences. 'Tis indeed by the Force or Energy of Nature we are made men, but we are born free. This is evident from that absolute Authority every particular Man hath over himself, viz. an independent Power in disposing of his own Person: Thus by Compact or Bargain any Man (I speak of Subjects) may become a Covenant-Servant, an Apprentice, or a Slave, without Nature's being concern'd in the Contract. For tho a King's eldest Son be a Prince by Birth, and the first legitimate Male Offspring of an Earl, a Lord the day of his Nativity; yet those are Birthright Privileges accruing to them, not from Nature, but the Laws of the Nation.

Thus Royal Blood and Descent from Antient Progenitors are only imputative Qualities, and have so little relation to Nature, that they are only *Premia Virtutis*, Rewards for Heroick and Generous Actions, that the Persons concern'd or their Forefathers were eminent for.

Subjects always under the Obligation of Obedience.

Jac. These Commands that are Moral, and perpetually to oblige, are esteem'd as Natural; but the Duty of Obedience is Moral, and perpetually to oblige (if the Fifth Commandment be so) which makes me account it Natural.

Will. As we are Subjects, the Duty of Obedience is a perpetual Obligation, and after a manner essential to us; but our Allegiance has not its Foundation in Nature or her Operations, but in the Relation we bear to a Sovereign: And more than this the Fifth Commandment doth not evince. This

This Precept is Moral, and perpetually to oblige; but the Rational part of it is grounded not in Nature, but in Gratitude: For, as *Aristotle* observes, Man is a sociable Animal, and there is nothing more destructive to Society than Ingratitude and Unthankfulness. And since Children have not only their very Being, but their Well-being also, from their Parents, no Obligation can be greater or more obligatory to the foresaid Duties.

So that were our Filial Obedience founded in Nature (as you fondly imagine) the Obligation to that Duty would not be half so strong and valid. Besides, Natural Duties have respect to the whole Species; and by this Argument the Bonds and Obligations to Obedience are general, and every man that is a Parent may challenge as strict a Duty of Obedience from us, as our immediate Parents that begat us; and the reason of this is, because Nature is equally concern'd for the whole *Species*, as for an *Individuum*.

But the Doctrine contrary to this, is so plain and evident from the general practice of the World, that it needs no proof. Fortho we are by Nature equally allied to all, being first in the Loins of *Adam*, afterwards in *Noah*; yet this Relation is never term'd more than *Common Humanity*. And how firm or lasting soever we esteem those Ties and Obligations you mention (which is really nothing but Friendship) the second or third Age commonly expunges them, if disobliging Carriage, distance of Place, or want of Converse, effect it not in much less time.

That Paternal Love, and Filial Affection is not founded in Nature, seems plain and evident from those different degrees of Love men generally bear to the Legitimate and Spurious Issue; and that 'tis cherish'd by Converse, and made firm and solid by process of Time, is more than probable from the affectionate Nurse, whose Excess of Love to the tender Babe does often transcend the affectionate Mother's. Yet 'tis clearly manifest, Man has a natural Appetite or Desire to survive in his Posterity, as irrational Creatures have of preserving their *Species*: But this proves nothing against the Argument, because the Issue of the latter (in riper years) are not by Nature oblig'd to the Duties of Gratitude and Obedience.

That the Fifth Commandment enjoins Obedience to our Superiors, is beyond all controversy true; and the reason is, because in the beginning of Government Sovereignty was part of the Paternal Power. But, to speak in our common Language, if the Duty of Obedience in a Natural Son to a Natural Father be not a Natural Duty, much less can this Argument prove Natural Allegiance due to our Civil Parents.

Jac. The Parliament conven'd in the twenty fourth Year of King *Henry* the Eighth's Reign, styles *England* an Empire, govern'd by a Sovereign Head; to which there is a Body Politick join'd, composed of all sorts and degrees of People, who are bound, next under God, to render unto their King Natural Allegiance.

Will. Natural Allegiance in that Act of Parliament is only a Rhetorical Flourish, spoken after the largest Acceptation of that Word; not that Allegiance flows from Nature, but because 'tis a Duty so proper, intrinsecal and essential to a Subject, *qualis talis*. For mens very incorporating themselves into a Civil Society, without the Obligation of formal Oaths, doth sufficiently evidence a tacit acknowledgment of Allegiance to the *Caput Communitatis*, because without it 'tis impossible to defend and preserve the Body Politick.

Jac. This Discourse, I confess, is somewhat rational; but I can't suddenly digest a thing so novel.

Will. What you term *Novelty* proceeds from the vulgar Expressions of Men, and want of a more serious and weighty Inspection into the Doctrine. And this will appear more rational, if we consult the Specimen of Government in general.

The great and fundamental Law of Nature is *Self-preservation*; 'tis the *Magna Charta* of all Constitutions, and the very End and Design of Government it self; 'tis a Principle so deeply radicated in Nature, that 'tis engraven upon every man's heart.

Had indeed our first Parents maintain'd the original Beauty and Brightness of their Creation, and preserv'd Nature in her state of Rectitude, Justice had been our Director, Innocence our Guide: But by that Fall of theirs the Nature of Man was so deprav'd and vitiated, his Passions so transported, his Desire so covetous, his Revenge so implacable, that *Meum* and *Tuum* were measur'd only by Strength and

Filial Obedience.

Paternal Love and Filial Affection whether founded in Nature.

Self-preservation the Fundamental Law of Nature.

and Power ; the longest Sword was the best Law, a securer Title than Prescription it self.

Thus the more powerful prey'd upon and devour'd the weaker; so that Nature destroy'd her own works: And the best course to countermand those hostile Proceedings, and preserve this grand Principle of Nature, was mens moulding themselves into Tribes, associating into Colonies.

Thus when a Company of Men (whether many or few it matters not ; for, *Majus & Minus non variant Speciem*) are unanimously incorporated into one Society, for the securer Maintenance of Peace, Correction of Vice, Reformation of Manners, and the more equal Administration of Justice ; Laws were enacted, Constitutions made, and Statutes provided to redress all private Grievances among themselves, and to protect the Society from the open Hostility of Publick Invaders.

And since neither Plaintiff or Defendant was fit to be Judg of his own Plea, nor the *Mobile Vulgus* easily induc'd to a joint Method, a unanimous Consent in opposing the Common Enemy ; a single Person (if Monarchical Government) or several (in other Constitutions) of such Virtue, Prudence and Fortitude, as the whole Society thought fit to confide in, was elected, as an Impartial Arbitrator in all Cases, whether private or publick.

The Supreme Authority Judg and Protector of the Community.

And to him, or them, was committed the sole Executive Power of these Laws ; in all Differences the Definitive Sentence was (according to Law) to be expected from his, or their mouth. And this Supreme Authority being both Judg and Protector of the whole Corporation, to advance the Grandeur of such Authority, and compleatly to capacitate him, or them, for the Execution of those establish'd Laws, this Power was held in high Estimation by the whole Society, and by the settl'd Constitution of the Government ; a proportionable Tribute from the Subject was by Law allowed as a Revenue to support that Royal Office.

And for the firmer uniting this Supreme Head and his Subjects, the former obliges himself by the sacred Ties and Obligations of an Oath, at his Inauguration, to govern his People according to the Rule of the establish'd Laws ; and the latter as solemnly pays Homage, and swears Obedience. So that Allegiance in all Subjects, whatsoever Government they live under (and especially in our own Constitution) is a Duty so perpetual and indispensable, that a violation of it is an high Offence against God, as well as against his Vicegerent.

Jac. This is my very Sense of the Duty of Allegiance ; this the Reason I refused to take that new Oath of Allegiance, because 'tis a plain Violation of the Old, which you your self acknowledg perpetually to oblige.

Obedience inseparable from every Subject.

Will. The Duty of Obedience is an inseparable Accident to every Subject ; and you may as well divest him of his Being, as his Subjection ; for this Duty, like the Royal Authority, never dies, but immediately descends from one to another. But what you talk of is a perfect Frenzy of Loyalty, makes Allegiance an infinite Duty, and exalts a King to the Honour of a God : if all his Commands must be obey'd, we tacitly acknowledg he can command nothing that is evil ; for an illegal Mandate must not be obey'd, nor an evil Action committed, tho imperiously enjoyn'd by the greatest of Men.

Measures of Obedience bounded by Law.

In all Governments, whether Monarchy, Aristocracy, or Democracy, the Subjects Duty of Obedience is to be measur'd by the express and positive Laws of that Government they are Members of, and not to be regulated by a fancied *Chimera*, of obeying no man knows what ; it being now visibly apparent, that men may be as superstitiously Loyal as Religious : and the first prove as fatal and destructive to the Peace and Happiness of the Nation, as the last to the Zeal and Fervor of true Religion ; when in good earnest, the utmost limits of Allegiance are but entirely to observe all the lawful Commands and Injunctions of our Superiors.

Jac. Has the Supreme Magistrate no Authority to command our Obedience ? And is the Extent and Latitude of the Duty of Allegiance limited by declaratory and express Laws ?

Will. 'Tis a most certain Truth, especially in our own Constitution, where the Government is a Monarchy Royal, in which the Subjects have as undoubted a Right to their Religion, Liberty and Property, as the supreme Magistrate has to the Royal Prerogative.

For as the Inferiour Laws limit the Peoples Rights, restrain them from invading the Royal Privileges, and from offering violence one to another ; so the chief design of *Magna Charta* is to reduce the Regal to a Legal Power. The Prescriptions

tions and Statutes of this Nation are the impartial Arbitrators of Government and Obedience.

Jac. At present a plausible Plea may arise from hence ; but in the beginning 'twas not so : for *Magna Charta* was never heard of till King *Henry* the Third, the Eighth King from the Conquest. And where were those Liberties then you so much boast of now ?

Will. Right ! *Magna Charta* (in that particular form of words 'tis now express'd) was not in being till the time you mention : but our Liberties and Properties were as much then the undoubted Birthright and Inheritances of the Subjects, as they are now ; for *Magna Charta* (as the Learned and Renowned Lord *Coke* observes) is for the most part Declaratory, informs us what our Rights and Privileges are, instates us into what was lawfully and antecedently our own Right, but confers no new Immunities upon us.

The Nature of Magna Charta.

Jac. This is strange indeed, when the very first Chapter begins, *We have granted to God, and we have given and granted to the Freemen of this Realm.* How could King *Henry* give and grant those things that were none of his ?

Will. The Subjects Liberties asserted in this *Great Charter*, are not to be look'd upon as pure Emanations from the Royal Favour, or new Bounties to which the People had neither Right or Claim, but rather a restoring those Privileges which by the Usurpation and Encroachments of former Kings were forcibly withheld from the Subjects. And the truth of this is evident from the Charter it self ; which in the words of Conveyance frequently mentions *sua Jura*, and *suas Libertates*, *Their Rights and their Liberties* ; which shews the People had a former Title to those Immunities, that by this Charter they were again put in possession of.

Kings Grants and Subjects Libertys asserted.

Jac. This is a pleasant Story indeed : Are the Subjects Liberties more Antient than the Conquest ? Has not a Conqueror Power to impose what Laws he pleases upon those Vassals and Slaves he has conquer'd ?

Will. However pleasant it be, 'tis clear and obvious, the Liberties and Properties of *Englishmen* are of greater Antiquity than King *William* call'd the Conqueror, as appears from the Laws that assert them, some as Antient as the Heptarchian Government, granted by *Ethelbred*, *Ina*, and *Offa* ; others Cotemporary with the Monarchical Regency, given and conferr'd upon the Subjects by pious King *Alfred*. Neither were these Laws abolish'd by the *Norman Duke*, but were of such Force and Vigour, as to survive what you call the Conquest, and set Bounds and Limits to that pretended Conqueror.

Liberties and Properties older than the Conquest.

'Tis not deny'd but an Absolute Conqueror may propose and enact what Laws he pleases, to regulate and govern the Conquer'd by : but this was far from King *William's* Case. For tho that great Victory over *Harold*, with such a mighty slaughter of the *English*, gave him great encouragement, yet the Crown was obtain'd by Bargain and Compact, as is plainly evident from those Grants made to *Stigand* Archbishop of *Canterbury*, and *Eglesine* Abbot of *St. Augustine's*, in behalf of the *Kentishmen* ; and also from the Coronation Oath it self, where the King swears to maintain and observe the Laws and Customs of the Nation.

K. Wm. I. no absolute Conqueror.

'Tis true, he made little esteem of violating this sacred Obligation, and his Successors vehemently encroach'd upon the Liberty and Property of the People ; but what Power was forcibly snatch'd from them did not invalidate the Subjects Right. Neither had King *William* (notwithstanding all his Pretensions to a Conquest) Power to dispose of the Lands or Inheritances of those Natives he receiv'd to Protection : This is manifest from that known Case of *Sherborn* the *Saxon*, who had a Castle and Lands in *Norfolk*, which the pretended Conqueror gave to one *Warren* a *Norman* ; and *Sherborn* dying, the Heir claiming the same by Descent according to the Law, it was before the Conqueror adjudg'd for the Heir, and the Gift made void.

Jac. The Coronation Oath is nothing to the purpose, to evince a Paction or an Agreement upon this Account ; for that was made to God, not to Man : and if that Oath prove a Compact, 'tis between God and the King, not between the King and the People.

Will. 'Tis neither my design, nor pertinent to the business in hand, to begin a Discourse of the difference between Vows and Oaths. Suppose the Oath were made to God (which in propriety of Speech is a Vow) how does that weaken or invalidate the force of the Argument ? It matters not, whether it be a Vow to God, or an Oath to Man, so long as the matter of it is so express and declarative of the Kings Duty, and the Peoples Rights and Privileges.

The Coro-
nation Ce-
remonies
suppos'd a
Contract.

Jac. The taking the Coronation Oath was the Conqueror's Condescension, a compliance with the Customs usual at the Inauguration of former Kings, and has no tendency to a Compact or Bargain with the People.

Will. You may stile it what you please; but 'twas such a Condescension or Compliance, without which (unless he had first won it by an absolute Conquest) he had never possessed the Crown of *England*. And the antient Rites of the Coronation itself had some footsteps of this Contract, viz. The presenting the King, on the Day of his Coronation, to the People upon every corner of the Scaffold, and asking them if they would have him for their King? I do not suppose the People had power to refuse or reject the Person thus exhibited, that would have render'd the Kingdom Elective; but the Custom being an antient Ceremony, and commonly used till *Edward* the Sixth's Coronation, is in my Judgment a more than plausible Argument of a Contract between the Supreme Power and the Subjects.

Jac. How can that be? The King of *England* is invested with all the Rights and Prerogatives of Royalty before he is crown'd.

Paction be-
tween King
and People
inseparably
join'd to
the Crown.

Will. Right; The King is before his Coronation as absolute a Monarch as after: This the Case of *Watson* and *Clark* (who conspir'd against King *James* before his Coronation, and were condemn'd of High-Treason) puts beyond all Controversy; and the Reason of this is clear, the Paction and Agreement between King and People, is an inseparable Concomitant to the Crown, devolves with it to the next Successor, and is the tacit Condition and Terms upon which he accepts the Government.

So that 'tis no more necessary or expedient for every Heir, as to the *Esse* of his being King, to declare the Conditions immediately upon his coming to the Crown, than 'twas requisite for every successive Generation, when the Court of Wards was in force, to declare they held their Lands by Knights Service. The antient Tenure of the Estate sufficiently evinc'd the former, and the very Descent of the Crown to the next of Blood, brings with it a tacit implication of all the Immunities and Liberties of the Subjects, in as full and ample a manner as if they had been repeated a thousand times over.

Jac. The Court of Wards is as signal a Badg of Conquest, as undoubted a Character of Vassalage and Slavery as any we can possibly instance in.

Will. The Court of Wards hath so little relation to Slavery, that the (a) Law terms it only a Service; and all Servants are not Slaves, tho all Slaves may be called Servants in the most strict sense: 'tis only a Token of Subjection, and comparatively an Ensign of Freedom, a lasting Monument of Stipulation and Agreement between the Royal Authority and the People; when at such an easy rate, as attending the Wars in extraordinary and emergent Occasions, a Man has an intire Propriety in so large an Estate, so ample an Inheritance. And the very Antiquity of these Courts doth sufficiently evidence the Nullity of a Conquest; these being in force in the Reign of King *Alfred*, and surviv'd your Conquest many Generations.

Jac. A Paction between the King and the People, is a strange Assertion; and to say that the People can make a King is very little less than a Contradiction.

Will. Pray explain your self, and shew for what Reasons.

Jac. Because the Royal Authority has a Power lodg'd in it, which the Subjects have neither Right or Pretence to confer. For example, The Power of Life and Death is in the hand of the Supreme Magistrate; which 'tis impossible he could receive from the People, because no Man has Power of his own Life, much less has he Right or Authority to put it into another Man's disposal.

The nature
of the Pow-
er one has
over his
Life.

Will. Here we must distinguish between Absolute and Conditional: No Man has an absolute Power over his own Life so as to lay violent hands upon himself, or oblige another to shed his Blood, yet every Man hath a conditional Power upon this account; that is, he is capable (as he is a Member of the Body Politick) to covenant or agree with the Head, and the other Members; that on condition he violate those Laws, the Transgression of which the whole Society have by Statute Law ordain'd to be punish'd with Death, he will submit to the Punishment. So that the King has not an Absolute Power of Life and Death; the latter is only a Penalty on condition we break such established Laws: And this Power is rather in the Laws than the Supreme Magistrate; for the King himself (without manifest Vio-

(a) *Regale Servitium quia specialiter pertinet ad Dominum Regem.* Britton, fol. 187.

lence and Injustice) has no Power to put any Man to death contrary to Law, or upon a particular Humor.

Jac. Suppose we grant somewhat of Agreement or Paction between the Conqueror and the *English* Nobility; what Advantage is that to us? Did the People indeed and in reality elect the King as their Governour; yet when once the Act was done, and Allegiance sworn, the People have no more Reason or Pretence to revoke or annul that Election, than a Wife (who has chosen a Husband, promised him her Obedience, join'd her self to him in Marriage) has to put away her Husband: and to say that the People may depose their King if there be a Bargain or Contract between them, is to affirm the Wife may divorce the Husband because she chose him.

Will. If all this be granted you here contend for, I cannot imagine how it would weaken or prejudice our present Cause.

The Wife after Marriage may not put away her Husband that lives with her as a Husband: Nay, tho he be a very ill Husband, turn Nonthrif, spend his Estate, abuse her Person, prove unnatural to her Children; notwithstanding all this she is obliged to an entire Obedience.

The nature of the Compact between Husband and Wife.

But if her Husband prove tyrannically cruel, so far prosecute the wicked Counsels and Designs of her Enemies, as to give signal and evident Demonstrations that he intends her Ruin, Destruction and Death: If he be in himself insufficient (as in the Case of the Countess of *Essex* by her Husband *Devereux*) the Laws allow relief to such a distressed Wife. And can we suppose there is greater care taken for a particular Member, than for the whole Body? In short, tho the Wife cannot put away the Husband because she chose him; yet the Cruelties, Injustice, Violence and Irregularities of the Husband may be such, as may give just cause of Divorcement.

Jac. But were it not grand Impiety by violence to seize upon the Estate or Goods of a private Man, and dispose of it to others? What Sacrilege then must it be to invade the Dignities Royal, and dispose of the Crown and Scepter?

Will. Causelessly to make forcible entry upon any Man's Goods or Estate, and by Violence to keep Possession, is plain and open Robbery; yet a Man may be guilty of such illegal Actions, such indiscreet and undue Behaviour, as may cause a seizure of both his Moveables and Possessions, without any manifest Wrong or Injury to the once right Owner. And the Laws allow a particular Man, for just and reasonable Causes, to disinherit his eldest Son, and entail the Estate upon others of his Posterity, only for the preservation of a private Family; and I would fain hear a solid Argument, why such an advantageous Privilege (in extreme necessity) should be denied the Publick.

Jac. The Reason is clear and obvious; the Rights and Properties of Subjects, or private Men, are confirm'd by the Laws of the Land, made theirs by Agreement: But the Prerogatives of the Crown are a Divine Right, the Imperial Diadem settled upon the Royal Head by the Almighty's own appointment.

Will. If this were but prov'd, the business were done: But alas! this Doctrine is both groundless and absurd: for whatever Monarch holds his Scepter *Jure Divino*, must either be invested by an immediate Divine Designation, viz. a special and extraordinary Commission from Divine Providence, as that of *Saul*, *David*, *Solomon*, *Jebu*; or else successively by a legitimate Descent from Persons thus designed, as that of *Rehoboam*, *Asa*, *Jehosaphat*. To the former of these, the Monarchs of *England* have no pretence; and if the latter invest them with it, 'tis deriv'd either from the antient *Saxons*, or from the *Norman* Line. That the first had no such divine Designation, is clear from the Story of *Hengist* and *Horfa*. And that no such Pretence can be made from King *William*, stiled the Conqueror, will be more than evident from his ambitious Designs, his illegal Attempts, his hostile and unnatural Proceedings, and his barbarous Actions in wading thro Torrents of Blood, riding in Triumph over heaps of slaughtered Innocents to ascend a Throne, and grasp at a Scepter, to which he had no more Right than the Great *Mogul*. And if * the *Norman* Duke first entred by Force of Arms, and after a Battel compounded for the Crown, 'tis vain and ridiculous to urge Prescription to make a Divine Right, because what in the beginning was not Divine, process of Time can never impress with a Divine Character.

No Monarch Jure Divino now.

* *Quod initio vitiosum est, non potest tractu temporis convalescere.*

Jac. But Solomon affirms, *Eccles. 8. 14.* Where the Word of a King is, there is Power; and who may say unto him, What dost thou?

Will. Right, the Words of Kings are powerful, and no Man ought to dispute their Commands: But the reason of it is grounded upon that Confidence we put in the Supreme Authority, that his Mandates will be always lawful.

But this place of Scripture has a peculiar relation to the Kings of *Israel*, a People whom God had chose to enter into Covenant with, and over whom he exercised such a special Providence, that 'twas usual with him to set up one, and pull down another, and cause to govern whom he pleased.

Thus when he had granted an extraordinary Commission to his Prophets, and they had anointed the designed Person King over that People, his Word was powerful and to be obey'd, because so immediately constituted God's Vicegerent. But this Command is not adapted to our Circumstances, neither does it add to our Duty of Allegiance; and we may as rationally evince the *Levitical* Laws obligatory in *England*, as evidence the *British* Monarchy *Jure Divino* from this place of Scripture.

The Practice of the Jewish Kings no Argument for us.

Besides, if this Doctrine were applicable to the Monarchs we live under, 'twould be destructive to our establish'd Government, and repugnant to the Apostolick Doctrine. If a King decease whilst his Heir is an Infant, by this Argument the whole Realm must be subject to his fond and childish Commands: and when he is arriv'd to those Years in which Passions are more vigorous, and youthful Lusts strongly importune to ascend the Stage, and act their Scene even in the violent persecutions of those leud Debauches; a grave and reverend Bishop dares not advise him to a Reformation of Manners, to live soberly and become religious, for fear he transgress this Precept by saying unto him, What dost thou? But what's infinitely worse may happen; the Heir to the Crown may be born a Fool or Ideot, or by accident be a Lunatick, or labour under a grievous Disease of Madness, and yet no Man must gainsay or contradict him if this Argument be valid.

Jac. A Child incapacitated to govern by tender Years, ought to be put under Protectors and Tutors during his Childhood; but in his adult State his mature Age may challenge this Authority. A Fool or Ideot can never be thought sensible what Government is; and a Lunatick or Madman is more incapable of Government than either: So that not only Reason, but Nature's instinct of Self-preservation, commands us to fence these from the Crown and Scepter.

An Infant a Monarch in his Minority.

Will. An Infant is as much a Monarch in his Minority, as in his mature and riper Years; and if he ought to be under Tutors and Governors, they must have power to say unto him, What dost thou? or we may reasonably infer he will be very ill tutor'd. A Fool or an Ideot (tho in all his Actions innocent) must be obliterated from the Line of Succession; and a Lunatick or Madman (who never acted against, or endeavour'd the destruction of Church or State) must lose his Right, because incapacitated by his Disease.

Why then by parity of Reason may not a Papist be excluded, who hath already so vehemently shook the Foundations of Government, both Ecclesiastical and Civil, and for the future stands bound by all the Sacred Obligations of Oaths and Vows, obliged under the Penalty of forfeiting his Diadem and Scepter in this World, and his precious and immortal Soul in that to come, to extirpate our Religion, subvert our Laws, and reduce us to the Subjection and Vassalage of the *Roman* Yoke?

Jac. This Argument, I confess, does a little stagger my Judgment; but when I remember those other exprefs and positive places of Scripture so pertinent to this present Controversy, I am radicated as firm as before. *Prov. 8. 15.* By me Kings reign, and Princes decree Judgment. *1 Sam. 26. 9.* Who can stretch forth his hand against the Lord's Anointed, and be guiltless? What can be more clear or obvious? what more positively evinced, than Monarchy *Jure Divino* from these Texts?

Divine Right of the Kings of Israel concerns not the Kings of England.

Will. 'Tis true, the places of Scripture do sufficiently evidence the Divine Right of the Kings of *Israel*, but they prove nothing for the Kings of *England*. And indeed not only these, but all other places of Sacred Writ in the Old Testament, that evidence Regal Authority to be founded by Divine Providence, have such a proper Aspect, such a peculiar Relation to the Jewish Government, that they can be expounded of no other Constitution, unless there be the publick Footsteps of an extraordinary divine Designation, as in all Changes was apparently visible in the Government, where commonly the Almighty chose, the Prophets consecrated, and the People obey'd.

But

But in opposition to this, the Government of *England* is a Paction and Contract between the Supreme Authority and the People; the former to govern according to those Rules the Laws prescribe, and the latter quietly (without resistance) to submit to be govern'd by the Laws established, and to support with their Lives and Fortunes the Regal Power.

Government of England is a Paction between King and People.

And this Agreement with the Subjects does not lessen or depress the Authority of the Supreme Magistrate, but rather advanceth it: for 'tis the Honour of a King not to be capable of doing Wrong; and 'tis the Safety and Happiness of a People to be under such a Magistrate as only commands lawful things, which capacitates the Subject to obey with safety; *Sub clypeo legis nemo decipitur*: Whilst the execution of illegal Commands is dangerous to the People, that being an high Offence to the Publick, and by consequence no small Transgression against the Supreme Magistrate: For the King being a principal part of the Body politick, must necessarily have a principal share in that grand Affront. And this is the reason of that Maaim, *The King can do no wrong*; all his lawful Injunctions being just and righteous, and his illegal Mandates must not be obeyed. So that would Court Earwigs leave off to flatter, and be exact and impartially honest in their Duty both to King and People, the first would be renown'd, great and glorious, and the second, being free from oppression and violence, would be loving, loyal, and dutiful Subjects.

Jac. But the Doctrine of the Gospel is so positive and express in commanding Obedience to Superiors, that if all other Arguments were away, this is sufficient to turn the Scale against all that can be said to the contrary.

Will. You mistake the very End and Design of my Intentions: I purpose not to annihilate or destroy our Obedience, but to reduce it to its due Proportion assign'd it both by God and Man, and cause it calmly to run down within the Banks of its own Channel: By which we shall be fitly capacitated to follow our Saviour's Advice, *viz. To render to Cesar the things that are Cesar's, and to God the things that are God's.*

The Gospel meddles not with Civil Government.

The Evangelical Precepts confine us to no particular Platform of Civil Government; in general, they provide for the preservation of Honesty, Justice and Peace, frequently inculcate our Duty of Obedience, pressing it by many cogent and rational Arguments; and exhort us patiently to bear all Calamities or Oppression we have no lawful way to avoid; but they do not oblige us to be Vassals and Slaves to an Arbitrary Power.

This is evident from pregnant Examples in the New Testament, especially from the Epistles of the two famous and renowned Apostles *Peter* and *Paul*; and particularly the last part of the 12th Chapter to the *Romans*, and the beginning of the 13th, were penn'd wholly upon this account.

Jac. The Scriptures you mention are so diametrically opposite to the Doctrine you teach, that 'tis impossible to find a more cogent Argument, or positive Command for absolute Obedience than those are. The Texts are largely insisted upon by our Divines; and from thence they rationally evince an unlimited Duty of Obedience.

Will. For the more clear Explication, and better understanding of the particular Scripture above mention'd, we must enquire what was the End and Design of that Epistle, and especially this place formerly quoted. And the Reasons of that, together with the knowledg of the Persons for whom 'twas written, their Estate, Condition and Circumstances, will give us a very great light towards a right apprehension of it.

The grand End and Design of this Epistle, was not to plant the Gospel at *Rome*, nor prescribe all the Doctrines requisite to the Foundation of Christianity, but rather to refute those false Doctrines that Hereticks had super-induced, and to condemn and reform those wicked and revengeful Practices that the Christians (upon some mistakes) were highly guilty of.

The Design of the Epistle to the Romans as to Civil Power.

The Persons for whose sake and instruction this Epistle was written, were chiefly *Jews* profelyted to the Christian Religion; but yet still strongly tinctur'd with their former Leven, *John* 8. 33. that they were *Abraham's* Seed; and by that federal Pact between God and him, were so immediately under the Government of Divine Providence, that no Heathen Potentate could have Authority or Lordship over them, further than urgent necessity or mere compulsion forced them.

And being at that time subjugated by force of Arms to the Yoke of the *Roman* Empire, and by reason of Traffick, Commerce, and other Occasions, necessitated to

to inhabit at *Rome*, where the very exercise of their Religion was a high Transgression of the Imperial Laws, which, together with their Refusal to pay the accustomed Tribute, and to render some respect of Honour to the Laws conferred upon the Heathens; the Imperial Officers frequently dealt very severely with those Christian Profelytes, and the Christians (upon the aforesaid Principle) used all Opportunities as severely to revenge themselves, which rendered the Christian Religion very odious at *Rome*, and was a great Block to the propagation of the Gospel.

So that the Christians resisting those Imperial positive Laws, and their opposition to the execution of them, was the only Reason, the alone Cause that moved the Apostle to write this Portion of Scripture to them; as appears from *Chap. 12. v. 17. Recompense no man Evil for Evil. V. 19. Dearly beloved, avenge not your selves, but rather give place to Wrath*; that is, rather suffer the Punishment of the Law, and the Injuries that those who inflict it offer to you, than resist; because (as he assures them, *Chap. 13.*) Obedience to the established Laws is a Christian Duty, tho it be to the Laws of a Heathen Prince: and when these Laws are opposite or repugnant to the Divine Precepts, quietly submit, and patiently suffer the Punishment of Transgressors, verily believing that God will cause all such Afflictions and Calamities to work for the benefit and advantage of his People.

Jac. What's this but Passive Obedience you so much condemn'd in the beginning of your Discourse?

Will. 'Tis so far from Obedience, that 'tis suffering for Righteousness sake. And indeed 'tis the only Suffering that has a Promise annexed to it in Sacred Scripture; for those lively Oracles authorize us not to cut our own Throats in obedience to the Supreme Magistrate if he injoin it, nor to sit still whilst others illegally act such violence.

The Gospel does not destroy the grand Principle of Nature, viz. *Self-preservation*, but cherishes and encourages it.

In what Cases Non-resistance lawful.

But in respect of the Publick, if Wrongs be personal, or Injuries peculiar to particular Men, such as portend not Destruction or grand Detriment to the whole Body Politick; such must be patiently submitted to, rather than by resisting, disturb the publick Peace or Tranquillity of the Nation. As 'tis more safe and prudent to bear with a little uneasiness in a particular Member, on condition it endanger not the other Parts, than hazard the Health of the whole Body by churlish Phyllick, to redress that tolerable Inconvenience.

The Duties of Obedience the Gospel enjoins is to lawful Authority, not to illegal or imposed Jurisdiction, not an Arbitrary Power: It condemns not our defending our selves from apparent Ruin and Destruction, and permits us to dispute our Rights with our Princes without that infamous Character of Rebels.

Besides, *Rom. 13.* was written on purpose to confute that fond Opinion of the *Jews* before mention'd, that they were so immediately in Covenant with God that no Foreigner had Authority to oblige them to Obedience.

The meaning of being subject to the higher Powers.

This the Apostle condemns by a positive Command to the contrary, saying, *Let every Soul be subject to the higher Powers*; and withal, shews them the reasonableness of this Precept, because *the Powers that be* (whether *Pagan* or *Jewish*) *are ordained of God*; inferring, that they living under the Ordinance of God, are obliged to be subject unto it. Verse the Second, he illustrates the heinousness of the Sin of opposing lawful Authority in the execution of legal Commands; both from the Ordinance it self, and the punishment due to the transgression of it: And persuades Persons in these Christian Circumstances, who were daily violating the establish'd Laws of the Empire, patiently to suffer, and quietly to submit to the legal execution of the Laws.

Because Opposition made by such Persons, was resisting the Ordinance of God; the Punishment of which is Damnation. He farther illustrates, that this was the End why Rulers were ordain'd, their Business and chief Occupation being to punish such Violaters of the Laws as lived in an open contempt and transgression of them.

And therefore he plainly tells them, they must be subject (there's a necessity laid upon them) not only for Fear, Wrath, Compulsion, or Punishment; the alone Obligations that had power to keep the *Jews* in subjection; but also for Conscience sake.

And

And for the same reason he enjoins them to pay Tribute; *Render therefore to all their due, Tribute to whom Tribute is due, Custom to whom Custom, Fear to whom Fear, Honour to whom Honour.*

From hence 'tis clear and manifest, the Apostle did not command those Christians to subject themselves to an Unlimited or Arbitrary Power; but to render Obedience to the express and publick Laws of the Empire, because these Laws only could determine how much Tribute, Fear or Honour, Superiors challeng'd, and Inferiors ought to pay.

No subjection due to illegal or arbitrary Power.

The same Doctrine also St. Peter teaches, 1 Epist. 2. where he observes the Heathens distinguished not between the Jews converted to the Christian Religion, and those who retain'd the Mosaick Principles, who for the above-mention'd Cause became the most obstinate, turbulent, factious and seditious People imaginable, upon all occasions exerting their utmost Endeavours to raise Tumults, and embroil the State in Civil Wars.

The Apostle, to dehort the Christians from the belief and practice of that wicked Principle, earnestly persuades them not to follow the Example of that obstinate and headstrong People, but by their regular and meek Behaviour, quiet and candid Carriage, to approve themselves to the Heathen Governors, by submitting to the Ordinance of Man for the Lord's sake; that is, render all due Allegiance, not only to Jewish but Heathen Governors, even to Claudius Drusus (in whose Reign the Ancients affirm this Epistle to be written) tho the Emperor Claudius were elected to the Imperial Throne by the Pretorian Band, in opposition to the Design both of City and Senate.

This very Doctrine also St. Paul commands Titus to teach his Flock, Chap. 3. v. 1. And those parallel places, those most express and positive Commands, Colos. 3. 18, 22. *Wives submit your selves to your own Husbands, Servants in all things obey your Masters,* are only Transcripts of this Doctrine: for neither Wives nor Servants are obliged to obey, or stigmatiz'd as disobedient for refusing to execute the illegal or wicked Commands of their Husbands or Masters; neither have the latter Power or legal Authority to correct or punish such Disobedience.

Subjection of Wives to their Husbands parallel.

Jac. If this be the genuine Sense, the natural signification of these places of Scripture, how came the Primitive Fathers to interpret them in another Sense? And why doth St. Paul affirm, 2 Cor. 10. 4. *That the Weapons of Christians are not Carnal?*

Will. This is the very Doctrine those Fathers delivered, as is evident from the Epistles of St. Polycarp, and the Apologies of Justin Martyr, Athenagoras and Tertullian, to free the Christian Religion from those Aspersions of Sedition and Rebellion the Heathens accused it of, and to justify the Loyalty and Obedience of Christians to the Powers and Magistrates under which they lived. Thus,

The Sentiments of the Primitive Fathers.

Till the Conversion of Constantine the Great to the Christian Faith, the Evangelical Doctrine was always in opposition to the establish'd Laws of the Empire. And in all Cases, when the Divine Precepts were inconsistent with the Laws establish'd in the Empire, the Christian Religion taught its Votaries quietly to submit, and patiently to suffer the Punishment due to the Transgression of those Laws, without resistance, or calumniating Language, to take up their Cross and follow their Saviour. This the Primitive Fathers did not only frequently inculcate to their Auditors, but manifested their Doctrine (as is evident from their Works) very often by their Sufferings.

But when the aforesaid Emperor had settled the Christian Religion, and added the Civil Sanction, viz. establish'd its Precepts as the Laws Imperial, the Doctrine of the Gospel (as to the suffering part) was much altered. In all former Mutations or Changes in the Government of the Empire, the Christian Pastors constantly exhort'd their Flocks to obey the Supreme Powers; not to calumniate or speak evil of Dignities, but patiently to submit to the most barbarous Cruelties.

But when the Evangelical Doctrine and Discipline was establish'd by Law, and Constantius the Emperor persecuted the Orthodox Clergy, (a) St. Hilary, that pious and learned Father, roundly tells the Emperor of his impious and unchristian Actions. And when Julian apostatized from the Faith, banish'd the Gospel, demolish'd the Churches, and scoffingly told the Christians, their Doctrine was to suffer; an eminent Man of that Age writ a Tract (b) approved as Orthodox Doctrine by

(a) *Contra Constantium Augustum.*

(b) *De Regibus apostaticis.*

that Catholick and Renown'd Bishop *Athanasius*, which tartly inform'd the Emperor, that the Christian Religion (when establish'd by Law) allow'd its Votaries to justify their Rights, and was not to be trampled upon, ruin'd and destroy'd, to gratify the Humor of an Ambitious and Idolatrous Prince.

That of St. *Paul* has no relation to our present Discourse; the Weapons there mention'd, are no Shields or Bucklers against the hostile Attempts of our Adversaries, but such as the Church is invested with for the punishment of Criminal Members, viz. Excommunication, Censures, &c.

Obedience to
lawful
Commands
only enjoined
by the
Apostles.

So that 'tis clear and evident those places of Holy Writ that enjoin Obedience to Superiors, however express or emphatical in themselves, have neither Relation or Aspect to our present Circumstances; they only enjoin Obedience to all lawful Commands, and prohibit Resistance under the greatest punishment, when legally imposed: which is so far from our late Transactions, at which you scruple, that they were only acted to preserve our pure and Apostolick Religion, and secure our Fundamental Laws and antient Government.

And 'tis most palpably ridiculous and very injurious to the Gospel, to wrest places of Scripture, peculiarly adapted to the suffering State of Christianity, I mean whilst 'twas under Pagan Princes, and without National Laws to support it; to blacken and condemn the Actions of Christians, whose Religion and Liberties are entail'd to Posterity by establish'd Laws, and whose only Action (for which they are blam'd) is for rescuing their Religion from Superstition and Idolatry, and their antient Liberties from the Vassalage and Slavery of Arbitrary Power.

Jac. But 'tis observable, when God chastiz'd the wickedness of the Kings of *Israel*, he never did it by their own People, but by a strange Nation; shewing by the Conduct of his Justice and Providence, that Subjects must not correct the faults of their Kings, but leave that to God, to whom they are only answerable for what they do.

Will. 'Tis true, that was the general Method God commonly used in that Nation, especially with those he had advanc'd to the Throne by virtue of an Extraordinary Commission from himself. Yet the Histories of that Kingdom yield us particular Examples of the contrary practice. Thus the Cruelty, Irreligion, and wicked Reign of *Jehoram*, caus'd *Libnah* to revolt from under his Government, 2 *Chron.* 21. 10. And the reason of this Revolt was because *Jehoram* had forsaken the Lord God of his Fathers.

The Example
of the
Maccabees.

And the *Maccabees* (when *Antiochus Epiphanes*, their lawful King, had silenc'd the Jewish Burnt-offerings and Sacrifices, profan'd their Sabbaths, and polluted their Sanctuary) by opposition and violence, in a most hostile manner, rescu'd their Worship from Heathen Idolatry, and cleans'd their Sanctuary from such Pagan Pollutions. And the renown'd and judicious (a) *Grotius* allows the Necessity of things to consecrate the Action. And the Learned and Ingenious *Thorndike* [in his *Right of the Church in a (b) Christian State*] affirms, God approv'd of this War; and *Heb.* 11. commends their Faith for that Heroick and Virtuous Action.

Jac. Were I convinc'd of all we have hitherto discours'd of, there is another Knot so intricate and perplexing, that I despair ever of satisfaction. The Oath of Allegiance is so express and positive, so firm and binding an Obligation, that nothing can possibly be a firmer Tie to secure my Obedience to *James* the Second; viz. *Not to take up Arms against the King upon any pretence whatsoever.* And to give this Oath of Fidelity to another, is not only a Contradiction in it self, but a downright Violation of that former sacred Obligation.

The Oath of
Allegiance
to K. J.
consider'd.

Will. The Objection, I confess (before seriously consider'd) is a very plausible plea, and of great importance; but when compar'd with the Rules of Right Reason, and the Commands of Scripture, the Difficulty doth immediately vanish. Yet I deny not but such Oaths are of great advantage in a publick Society: by these Princes are secur'd of their Subjects Allegiance, Generals of their Soldiers Fidelity, Subjects ascertain'd their Princes will not degenerate into Tyrants, Leagues confirm'd between Nations, Peace conserv'd among Men, Mutual Commerce and Trading secur'd, Liberties and Properties maintain'd, Controversies and Suits decided.

And among those the Oath of Allegiance challenges a prime place, being really and indeed a very sacred Obligation; viz. a calling of (c) God to witness the Reality of our Intention, to keep inviolable that Faith and Obedience we have promis'd and sworn to our Superiors, the breach of which is a most horrid Crime,

(a) *Lib. 1. de Jure Belli, cap. 4.*

(b) *Pag. 306.*

(c) *Jurare nihil est aliud quam Deum testem invocare. Assumere Deum in testem dicitur jurare.*

a superlative Perjury, very often severely punish'd in this World, and (without a sincere and unfeign'd Repentance) will inevitably ruin us in the next.

So that whatever we thus promise, we are as firmly oblig'd to perform, as the Wit of Man can contrive to bind us.

But notwithstanding all this, the Oath of Allegiance, however solemnly administered, or however significant or express in it self, adds nothing to the Duty of Obedience incumbent upon us as Subjects, without an antecedent to the formal Administration of it; it may indeed corroborate and confirm the Obligation, by adding Perjury to our Disobedience, but it cannot increase or augment the Duty.

And the very End and Design of the Oath attests the same: for tho the Oath do particularly name the Supreme Magistrate (because he is Head of the whole Society) as if 'twere design'd only for his Protection and Safety; yet we may rationally infer, that the Parliament (being conven'd for the good of the Publick) who invented this Oath, took it themselves, and impos'd it upon others, had in this Oath a more General and Notable Intention, of a more excellent and transcendent Nature; viz. to promote the Safety, Honour and Happiness of the whole Society. This is evident from the Ridiculousness and Injustice of that Acceptation: For if the Oath of Allegiance be obligatory only in the former sense, viz. have respect only to the Protection and Safety of the King's Person, without having any relation to the Peace and Welfare of the Publick; by this Obligation our Representatives in Parliament put both themselves and us into the hands of the Supreme Power, to destroy us at his pleasure; binding us by the most solemn Obligations imaginable, even the Sacred Ties of the Oath of Allegiance, quietly to submit to the Invasions of our Liberties and Properties, Confiscation of our Goods, Sequestration of our Estates, Profanation of our Holy Apostolick Religion, by superstitious and Idolatrous Practices; and to all other barbarous Outrages that the Pride and Ambition of Man, or the Malice and Cruelty of implacable Enemies, could invent: which is a Solecism of so grand a Consequence, as we may well think impossible for so Learned, Judicious, and August a Senate to impose upon themselves.

The End of the Oath consider'd.

Especially if we consider, that the Oath of Allegiance, taken only in the former Intention, confounds and destroys all other Constitutions of Parliament; is opposite and destructive to the Fundamental Laws of Nature, viz. Self-Preservation, and plainly repugnant to the Divine Rules and Precepts; which (to any rational Man) methinks should be a sufficient Argument to engage him to understand it, in the second and more excellent Sense: since 'tis granted by all men of Reason and Learning, that Oaths are only obligatory in the Sense of those Persons who invent and impose them, if their Intention may clearly and rationally appear from the Words as expressed in the Oath.

The Intention of that Oath explain'd.

Now the Oath of Allegiance, in different Circumstances, being capable of a double Construction, and both apparently agreeable to the Intention and Design of the Composers, I will a little illustrate the Reasonableness of this twofold signification.

The Royal Authority being the Head of the Body Politick, the Life of the Law and the Soul of Government, 'tis not only highly reasonable, but absolutely necessary for the Publick advantage and behoof, to fence and defend this Supreme Magistrate against Foreign Enemies, and secure him from private Insurrections at home.

And to the end that Rebellion might prove abortive in the very Conception, and that Cockatrice Egg be crush'd e'er it become a Serpent; the sacred Tie of the Oath of Allegiance was judg'd the most effectual means to prevent all Civil Wars, repel all open Hostility, and secure the whole Society of the intire Affections of every particular Member.

And the King being the Person to whom was committed the weighty and important Affairs of the Nation, and in whose Management and Conduct the Happiness or Misery of the Publick does very much consist; this Oath of Fidelity was personally made to the Supreme Magistrate, as Head, tho really design'd for the Advancement and Promotion of the Peace, Happiness and Safety of the whole Society.

And for the Truth of this Assertion, I appeal to the Capacity of the meanest Reader, whether he can suppose, the Great Council of the Nation assembled in Parliament, who compos'd this Oath of Fidelity, and enjoin'd it to be given to the Prince; whether, I say, they design'd it only for the Preservation and Safety of the King? especially when (by his own Option and Choice) he should place his personal Interest and Safety in opposition to that of the Publick Weal?

The Interest
of Royal
Authority
and the
People are
to be join'd.

From hence 'tis evident, that in all ordinary and common Circumstances, that is, when the Interest of the Royal Authority, and the People (which always ought to be) are in conjunction, the Oath of Allegiance binds all Subjects, both with Life and Fortune, to assist and defend the Supreme Magistrate against all Stratagems and Hostilities, whether publick or private. And the reason of this is, because the Prince is so nearly ally'd to the Publick, and so much a part of it, that the Safety and Happiness of the latter is, in a very high measure, involv'd in the Prosperity and Welfare of the former.

But in great Exigences, and extraordinary Junctures of Affairs, in which the Ruin and Destruction of the Publick is inevitably involv'd (especially if that National Calamities be favour'd, advanc'd and promoted by that Person whose particular Safety is design'd in the Oath) the promise of Fidelity in such Circumstances, binds only in the latter and more general Intention; for Kings were made for the People, not the People for Kings. And it is plain Madness to imagine any Obligation can bind us to hasten the Accomplishment, not only of our own, but the Publick Destruction; because such Actions are diametrically opposite to all Laws, both Natural, Civil, and Divine.

Extraordi-
nary Con-
tingences
how to be
regulated.

And that extraordinary Contingences are not to be regulated but by extraordinary Methods, is plain and obvious from several Topicks. In common and ordinary Circumstances, the Laws secure every man in his Liberty and Property: Thus the breaking a private man's House, forcibly seizing a man's Goods, or violently restraining his Person, are Actions very unjust, and highly punishable.

But in extraordinary Cases, these are no Rules; but Necessity has her Laws: As in time of a raging Famine, Propriety of Goods may be forc'd; Corn may by violence be taken from private men, and sold for the publick Relief: In a noisom Plague, and infectious Pestilence, for the common Preservation, men may be restrain'd from Commerce, and confined to their Houses: and in an apparent apprehension of an Invasion from abroad, encourag'd by a Party at home, men may be seiz'd, or imprison'd, or restrain'd to their Habitations.

Thus Divine Providence constituted the general Law of Nature to regulate the ordinary Course of things: but beside these, Miracles have been often effected, which the aforesaid Law could never regulate: and yet these supernatural and stupendous Works were always design'd for wholesom and excellent Ends. Thus Nature her self, for her own preservation in *vacuums*, &c. causes natural things to act contrary to their natural Motions, forcibly attracting heavy Bodies upwards, and as impetuously compelling the light to descend.

And the express and positive Laws of the Decalogue, notwithstanding the Solemnity of their Promulgation, together with the Evangelical Commands of the New Testament (tho back'd with stupendous Miracles to attest their Divinity) are null and void, when by extraordinary Circumstances they are plac'd in opposition to the Works of Mercy, Charity or Necessity. Our Saviour, confirming this Doctrine, *Matth. 12. 11.* saith, *Which of you shall have one sheep, and if it fall into a pit on the Sabbath-day, will not lay hold on it, and pluck it out,* notwithstanding the strict Precept for the Sanctification of that Day? And our strictest Casuists (in case of Necessity) allow Apothecaries to compound Medicines, Mariners to follow their daily Labours, and Midwives to do their Office upon the Lord's Day; and all this for the preservation of particular Persons.

Preserva-
tion of the
Publick
from ruin,
of the
greatest
consequence.

So that the natural Consequence from hence is, That if the preservation of a few Individuals be more acceptable to God, than the strictest literal Observance of his Laws; and the Deliverance of the Publick from Ruin and Destruction, a matter of such grand importance, such absolute necessity, as can consecrate the Violation of positive Laws, both Human and Divine: Then our present Obligation, viz. the Oath of Allegiance, *not to take up Arms against the King upon any pretence whatsoever*, can be obligatory only in the literal Sense, when the Interest of the Supreme Magistrate is in conjunction with the Publick Safety and Happiness, and has no relation to his particular Intrigues, or personal Humors.

And if the Royal Authority (as in our late Circumstances) be so deeply infatuat-
ed by the wicked Counsels of impious and self-ended Men, as to sever his Peace, Prosperity and Quiet from that of the whole Nation, and illegally to prosecute that Advice so far, as to place his own Safety, Happiness and Tranquillity, in opposition to the Safety, Welfare and Security of all his People; the Oath of Allegiance is then loose as to him, and obligatory only in the latter and more excellent Sense.

Jac. But all Oaths when once taken (if imposed by a lawful Authority, and legal Oaths) do so far invest the Persons sworn to, with a right to the thing sworn, that the Person swearing has no power of himself (without the other's Consent) to retrieve that Promise, unless by Violence and manifest Injustice. Now the Oath of Allegiance being a lawful Oath, imposed by a competent Authority, my taking this Oath, invested the King with a Right to my Fidelity and Obedience; that without the approbation of his Royal Person, 'tis not only unjust, but even impossible to divest him of it, and confer it upon another.

Will. Right! The former part of your Assertion is true, the Oath of Allegiance is a lawful Oath, and imposed by a sufficient Authority; yet his Majesty, before you took this Oath, was invested with as undoubted Right to your Obedience, and in as full and ample a manner as if you had taken the Oath a thousand times. Neither indeed has the Supreme Magistrate power to absolve you from this Obligation: And the reason of this is manifest; for the Duty of Allegiance does so mightily conduce to promote the Advantage and Happiness of the whole Society, that the Publick in general (of which the Supreme Magistrate is but a part) challenges so large a Concernment in it, that 'tis a manifest Wrong, an apparent Injustice, for a particular Person (tho never so great) to dispense with the undoubted Birthright of every Subject.

The Oath of Allegiance how binding.

So that should the Oath be taken only in the first Acceptation, as you seem plainly to understand it, *viz.* to have relation only to the Safety and Preservation of the King's Person, without any Eye to the Publick Welfare and Security; the Oath in that sense is not Obligatory, but *ipso facto* void from the very imposing.

And the reason of this is plain and obvious, Because all Oaths, or promissory Obligations, that are contrary to our Duty to God, our Neighbour, or our selves, repugnant to Piety, Justice or Charity, are invalid and bind not. *Rei illicitæ nulla obligatio*, is a Maxim so consonant to the Doctrine of the Gospel, that no Christian (I suppose) has a face to deny it: And that the Oath of Allegiance, in your sense, is *Res illicita*, is easily manifested from several Topicks.

First, From its opposition to Piety, and destructiveness to Religion. His Majesty to whom you have given this Oath of Fidelity, is by Profession a Roman Catholic; and *qua talis* he is obliged, not only by the Principles of his Religion, but *sub pœnâ* of Excommunication, Deposition, yea Damnation, to extirpate the Protestant Religion to the utmost of his Power, and to propagate Superstition and Idolatry in its room.

Oath of Allegiance in the Jacobitish sense, prov'd unlawful.

Now your Notion of the Oath of Allegiance is both a Licence and Encouragement to such a Supreme Magistrate, actually to free himself from the Ties of such powerful and terrifying Obligations, by prosecuting the business: For when his Person and Government is secured (under the penalty of Perjury, and punishment of Rebellion) against all resistance and opposition from the Publick, what Block can hinder him from working out his Liberty, setting up his Superstition, Idolatry, and approving himself to his Holy Father, by subverting our Laws, destroying our Religion, and by severely punishing those who obstinately oppose his Arbitrary Proceedings?

Besides, if the Oath of Allegiance, *viz.* Not to take up Arms against the King upon any pretence whatsoever, but to assist his Majesty with Life, Limb, and Terrene Honour, be to be understood particularly of the King's Person; by this Argument, if a King degenerate to a *Julian*, his Subjects are (by all Sacred Obligations) bound to assist him with their utmost Abilities, in demolishing the Temples and Houses of God, exterminating their Religion, burning their Bibles, and banishing the Gospel from his Territories, and by their endeavours to introduce Paganism, and establish the Worship of Infidels.

Secondly, The Oath of Allegiance in this sense is not obligatory, because of its contrariety to Justice and Righteousness: Politick Justice commands us to support as well as obey all the wholesom Laws of that Society we are Members of; and the Divine Precepts enjoin us to protect the Innocent, relieve the Needy, and defend the Oppressed; which are Mandates very inconsistent with your Notion of the Oath of Allegiance: for according to your Interpretation of that Obligation, all Subjects are obliged to support and defend the Supreme Magistrate in all his Proceedings, as well when he oppresses the Loyal and Innocent, as when he punishes the Guilty and Criminal; as vigorously in his Encroachments upon the Liberties and Properties of the Subject (if he please to invade them) as in maintaining his own just Rights and Prerogatives.

Repugnant
to the Du-
ties of the
Gospel.

But Thirdly, Whatsoever Plea or Objection may be made against the two former, there is in the *Oath of Allegiance*, taken in the aforesaid sense, such an evident Repugnancy to that Eminent and Evangelical Duty, Charity, so frequently inculcated in sacred Scripture, that that alone doth sufficiently evidence the Invalidity of the Obligation.

The Duties of Mercy and Charity are not only the Advice and Counsel of our Saviour, but his express and positive Commands, viz. That we shew Mercy as our Heavenly Father is merciful; that we deal by others as we would be dealt with in the like Circumstances: Merciful not only to mens Bodies, the perishing part, but chiefly to their Souls that are immortal and must live for ever; that we may (as much as in us lies) promote and set forward the Salvation of all Men; not to detract from or add to the Word of God, nor to comply with those that do it, but uncorruptedly to teach it to our Sons, and our Sons Sons.

Now the *Oath of Allegiance*, in the aforesaid acceptation, can never be reconciled to this Doctrine; for that Obligation (whenever the Supreme Magistrate pleases) destroys Christianity, confirms the *Hobbian* Principle, opens a door to Popery, Turcism, Apostacy, Atheism, or what else that Magistrate shall please to introduce.

And whatever Objections may be produced against it from our Sins, viz. that they are as numerous and great as the Transgressions of *Sodom*, unparallel and provoking as the Wickedness of *Samaria*, that our obstinate contempt and voluntary abuse of his Evangelical Mercies, cry aloud to divine Justice, at least to obscure and darken his Gospel, if not totally to deprive us of it; yet these can never justify our proceedings to future Ages, or yield any pretence to a Plea to free us from our Duty of Christian Charity to the Infants of our Time, and the Children yet unborn, which doubtless are not Criminals upon this account, which notwithstanding will (by this unparallel'd stupidity of ours, under the Mask or Vizard of Loyalty) be (as by a fatal and peremptory Decree) for ever deprived of the knowledg of the right Worship of God, and inevitably involved into such a lamentable condition, as will certainly bring them to a defiance of God their Creator, or into ignorance of a saving knowledg of their blessed Redeemer.

The true
meaning of
the Oath of
Allegiance.

The natural Consequence from the whole is, That the *Oath of Allegiance* can only bind in the first sense, when 'tis in order to effect the second; that is, it only obliges us to protect and defend the Interest of the Supreme Magistrate, when his Interest is subservient to the Welfare of the whole Society. But if bigotted Zeal, haughty Ambition, or wicked Counsellors, be so prevalent with the Prince, as to obliterate his Duty to the Publick, and upon private Piques and Humours, destroy the Laws, subvert Religion, neglect all the Methods of Government, and separate his own Happiness from the Safety and Welfare of the Publick, the Oath in the former sense is void and inobligatory.

And the reason of this Consequence is very plain, because Men are under former Obligations to the contrary: For in the Baptismal Vow (which is commonly the first Men make) they oblige themselves by that Covenant made with God, to perform all Christian Duties, which respect either God, their Neighbours, or themselves, and especially to the Works of Piety, Justice and Charity. Now *After-Obligations* can never bind such to opposite Duties, *Obligatio prior præjudicat posteriori*; as in case of Marriage, "A Pre-contract with one Party voideth After-contracts with any other: And if a Man convey Lands to several Persons by Deeds of several Dates, the first Conveyance stands in force, and all the rest are void. Thus the *Oath of Allegiance* (tho design'd and taken in your sense) becomes void and inobligatory, because it finds Men formerly engaged to contrary Dutys.

An

An Examination of the *SCRUPLES* of those who refuse to take the OATH of ALLE- GIANCE.

IF those who have protested against the Proceedings of the Convention, had publish'd their Reasons for so doing, it would have been an easy matter to have satisfied the Publick, by examining whether the Grounds inducing them to this Resolution, were solid or no? But forasmuch as the greater part have acquiesc'd in the Judgment of the Convention, wherein we have reason to believe they proceeded according to the Light of their Conscience; and the other Party hath not thought fit to publish the Grounds of their Dissent; we have, in the matter before us nothing to examine, but what some of them may have alledged in their Conversations with their Friends, to justify their Protest and Refusal to follow the Sense of the Convention and Parliament.

Scarcely was the Project of the House of Commons for settling the Government publicly known, but some most severely condemned their proposing it to the House of Lords, as offending them in all its parts. They could not endure to hear of an *Original Contract* between the King and the People; they found fault with the word *Abdicated*, which the Commons had made use of to signify that the late King *James II.* had abandon'd the Government of the State: And last of all, they could not bear with their declaring the *Throne vacant*. To make void this Vote of the Commons, some Members of the House of Lords propounded a quite different way of proceeding in this Affair: they agreed with the Commons, in declaring King *James* the Second incapable of administering the Government, as well because of his Religion, which engageth him to the utmost of his Power to destroy a Protestant State; as for the care he has taken since his coming to the Crown, to evidence to all his People, that he was resolved to overthrow the Government establish'd by Law to make way for Popery; but that notwithstanding all this, they could not declare that he had broke the *Original Contract* between him and his People, or deprive him of the Royal Dignity. Objection 1.

Secondly, That his retiring out of *England* into *France*, could not be accounted a voluntary and lawful Renunciation of the Government; and consequently that it could not prejudice the Right he has during his Life to the Crown, as being a Right devolved upon him by Succession. Objection 2.

Thirdly, That seeing the Throne could not be said to be vacant, the Prince of *Orange* could not, without Injustice, be advanced to the Dignity Royal, because thereby the Right of Succession would be overturned, and the Constitution of the Government changed, by making the Kingdom Elective; nor the Princess neither, because this would be an invading of her Father's Right, whom Death alone could divest of the Sovereignty. Objection 3.

But being sensible, as well as the Commons had been, that these Suppositions admitted, would subject the Kingdom to inexpressible Confusion; they pretended to remedy this Inconvenience, by declaring the Prince of *Orange* Regent of the State, by reason of the King's incapacity to administer the Government; to grant him all the Rights of Sovereignty except the Title of King, and to swear to him the Oaths of Allegiance and Supremacy, under the Title of *Regent of the Kingdom*: Which Provision seem'd to them sufficient to settle the Government on a sure and lasting Foundation, without shaking any of those Maxims they opposed to the Resolve of the House of Commons, as being maintained by the generality of the Divines of the Church of *England*. It was visible enough, that this Expedient of the Lords was not sufficient to preserve the Fruit of the Deliverance God had so lately afforded us; and it had been already rejected, as an unprofitable Device, by the *Westminster* and *Oxford* Parliaments, *Anno 1680.* Neither did it at all answer the first steps the Lords made after the Retreat of *James II.* for they immediately took upon them the Government as being wholly abandon'd, and afterwards put it into the hands of the Prince of *Orange*; they desir'd him to call a Convention. All which Acts of theirs made it as clear as the Light, that they no longer own'd the Regency contended for.
The Nation left without Government.

the Authority of King *James* the Second who had quit the Throne: For supposing the continuance of his Authority, none of these Acts could be accounted lawful, as being so many Attempts against the Sovereignty.

And forasmuch as neither the Commons, nor the greater part of the House of Lords did ever agree to this Expedient; but following their first Resolutions, have proclaim'd the Prince and Princess of *Orange* King and Queen of *England*, and have ordered the *Oath of Allegiance* to be sworn to them; it appears that the Scruples of those who propounded the Regency as an happy Expedient for settling of the Government, were only founded on the Maxims before-mention'd, which they consider'd as an unmovable ground to build upon. Wherefore to deliver them from the Hesitations which the proclaiming of the King and Queen, and the necessity of taking the *Oath of Allegiance* have raised in their Spirits; we must enquire whether the Principles they go upon be so immovable and incontestible as they suppose them to be, or whether indeed they have not built upon false Suppositions. I know there are already several Discourses publish'd upon this Subject, wherein the Proceedings of the Convention are strongly asserted; and many thereby freed from their Scruples, by discovering the Prejudices they labour'd under. Yet forasmuch as it is of use to treat still of Subjects, as long as the necessity of further clearing them continues, I presume I shall not lose my pains in examining them afresh, in hope of propounding something that may satisfy the Consciences of those who have started at the apprehension of these Difficulties, which is the main Design of this Writing.

Original
Contract
prov'd.

The first Question, viz. Whether there be an *Original Contract* between the King and People, the Supposal of which the Commons made their Foundation, is the easiest thing in the World to be determin'd. To convince any rational Man hereof, it is enough to put him in mind only of the Oath the King swears to his People, and the People to their King at his Coronation; which is the Seal of that *Original Contract*. There are two sorts of Oaths, according to the Consent of Divines; the one Judicial, taken at the Command of a Judge; the other Extrajudicial, which is taken by the Agreement and Consent of two Parties, who agree mutually to take it; which is therefore also called *Conventional*. *Sylvest. de Juram. cap. 1. Sect. 3.* This being granted, it cannot be deny'd that there is an *Original Contract* in all Kingdoms, where the People take an Oath of their Princes; the Oath on their part being nothing else but the solemn Confirmation of the Obligation they enter in, to perform their part of the Conditions which are impos'd upon them by the State. 'Tis very strange that in a Matter thus clear and self-evident, as this is, some should have express'd themselves in a flouting way, that the House of Commons would have done well to have sent the Lords a Copy of this *Original Contract* drawn from their Registers, wherein they ought to have preserved it, if any such were. They shew'd sufficiently with these words, That they never had a right Notion of the Government of *England*, nor of the Nature of the Coronation Oath; which, to a Demonstration, proves this Contract. They might have learn'd this Point from the noted *Mirror of Justices*, Chap. 1. Sect. 2. where after having shew'd, that God had subdued the antient *Britans*, because of their unjust Government to the Power of the *Saxons* who conquer'd *England*, there being no less than Forty of them that were Companions in the Sovereignty; *These Princes* (saith he) *after great Wars, Tribulations and Troubles suffer'd for a long time, chose themselves one King to reign over them, to govern God's People, and to maintain and defend their Persons and their Goods in Peace by Rules of Law. And at the beginning they made the King to swear, That he should maintain the Christian Faith with all his Power, and govern his People by Law, without having regard to the Person of any one, and that he should be obedient to suffer Right as well as his People.* Than which a more true Notion cannot be given of the Government of *England*, its Original, and the Obligation that lies upon those who take the Coronation Oath.

The Coro-
nation Oath
obligatory.

I know there be some Men whose Skulls are thick enough to maintain, That the Oaths Kings take at their Coronation, do not at all oblige them to their People, but only their Consciences with respect to God. But the four following Considerations are sufficient to disabuse them of this Illusion they put upon the State and Kings themselves.

First, It is false that Kings do not swear to the People; 'tis to them they precisely direct their Promise, with the Oath that confirms their Promise and Obligation, *Bracton Lib. 3. Cap. 9.*

Secondly,

Secondly, If this Divinity will hold, Why then are not the People as well disengag'd from the Obligation that is upon them, to perform the Promises they have made to their Kings, and confirm'd by their Oaths, as being oblig'd in Conscience to God, but not to the King ?

Thirdly, They may be convinc'd of their Error, by the plain sense of the Oaths that Kings take in Elective Kingdoms, these being the express words of the Oath taken by the Kings of Poland : *If I shall violate this my Oath, the Inhabitants of my Kingdom shall not be bound to shew me any Obedience.*

Fourthly, If it be said, that this indeed is so in Elective Kingdoms, but that it cannot take place in those where the Crown descends by Succession ; this Supposition of theirs, that Succession alters the nature of the King's Oath, is altogether false and ungrounded : We have an Instance hereof in the Kings of Spain, who when they are crown'd Kings of Arragon, which they possess by Right of Succession, the People, after that the King has taken the Coronation-Oath, speak in these Terms : *We who are as powerful as You, but are more considerable, constitute You our King, for to preserve our Laws and Liberties ; which if You do not, this goes for nothing.* The King of Arragon's Oath. And certainly it is a very pretty Idea these Men frame of the Royal Oath : A King obliges himself before God, in the most solemn manner imaginable, to keep the Laws ; but for all this, say they, there is not the least tie upon him to his People. If this were indeed the case with Kings, they had much better, after having perform'd this Ceremony, openly protest, That what they had done, was only in Mockery and Masquerade ; for that tho they should violate the Laws and overturn the Government, they only in so doing act according to their Power and Right ; and no body can of right say to them, any more than to the Pope, *Why dost thou so ?* At least, this would be of absolute necessity to disabuse the People, who, upon the respect they have for an Oath, are apt naturally to conclude (without doubt by an effect of Stupidity common to all Mankind) that Oaths oblige the Parties that take them, not only towards God, but also to those to whom in particular they are address'd.

I grant, that the Governments which require an Oath from their Kings at their Coronation, have not been careful to subjoin to it the same Declaration the States of Arragon have thought fit to do : However, it is evident that the leaving out this Clause, does not at all alter the Case. Thus we see, that in Matrimonial Contracts, tho the Clause of Divorce in case of Adultery be not express'd, as indeed it is usual to omit Clauses that are odious ; yet cannot we infer from thence, that that Condition is not as expressly to be understood, as if it had been declar'd in plain words and at large. We read in the Laws of St. Edward, which were afterwards ratified by King William the Conqueror, and which were sworn to by all the Kings at their Coronation, That if the King do not govern according to the End for which he was constituted, *(a) He shall not so much as retain the Name of a King, but forfeits his Title.* So that we see how the fundamental Laws of the Nation do decide the point. The famous Fortescue Chancellor of England, was so sensible of this Contract, that he lays down in his Book *de Laudibus Legum*, That the Power of the King of England, is a Power limited and bounded by Laws, which he cannot change at his own pleasure, and by such Laws as his Subjects themselves desire ; and this he calls a Political or Civil Government, and ascribes the Original of all Forms of Government only to the voluntary Consent of the State.

Taking for granted then (as indeed it cannot be denied) that there is an Original Contract between the King and People, the Enquiry will be, Whether King James II. did not violate that Contract, by breaking the Oath he swore to the People ? That he has broken his Oath in all the parts of it, is a thing so evident, that even those who were for his keeping the Title of King, tho they thought fit to take from him the Administration of the Royal Dignity, never durst call it in question. K. J. violated his Coronation Oath, and broke the Original Contract. The matter of Fact was but too apparent, and the Effects of it too sad and sensible. Now this suppos'd, for it needs no proof, can we rationally conclude that James II. has not forfeited the Right and Title of King ? If on his part he has broke all the Ties he had engag'd himself in to his People, who sees not that in so doing, he has dissolv'd the Original Contract which he had confirm'd by Oath ? To say that a Contract may still subsist, tho one of the Parties break the Conditions by forswearing himself, is a mere Contradiction ; because a Contract cannot subsist,

(a) *Nec nomen Regis in eo constabit, verum nomen Regis perdit.*

Kings de-
pos'd for
Male-Ad-
ministra-
tion.

but by performing the Conditions for which it was made at first. So that we cannot doubt, without confounding the nature of things, but that *James II.* by breaking the Engagements he had taken, and confirm'd by Oath, has set free his People from their Oath of Allegiance, by which they engag'd themselves to him, only on condition of his performing the Promises he had made to them. In this case it is that Maxim takes place, (*a*) *With him that breaks his Faith, Faith may be broken.* The King promises to govern according to Law, and upon this account he enjoys the Rights and Prerogatives annex'd to the Crown; the People on their part promise Fidelity and Allegiance to him, according to the Laws: As soon therefore as *James II.* began to overturn the Laws, as he has done in the most profess'd manner imaginable, he at the same time also dissolv'd the Original Contract, by which alone he could demand Obedience from his People, who stand no longer engag'd to him by their Oath of Allegiance. What I here alledg, is confirm'd by all the Divines of the *Romish Church*, who have not sacrific'd their common sense to Court-Flattery. See what *Aeneas Sylvius* speaks to this point, *Lib. 1. de Gestis Concil. Basil.* where he relates the Discourse of the Bishop of *Burgeos*: *The Pope is in the Church, as a King in his Kingdom; but to say that the King has more Power than all his Kingdom, is absurd. Wherefore, as sometimes Kings, for Male-Administration and Tyranny, are wholly excluded and turned out of their Kingdoms; so neither can it be doubted, but that a Pope may be depos'd by the Church, that is, by a General Council. Nor do I give any heed to those who attribute to Kings such an unlimited Power, as not to be tied to the Laws; these being only a sort of Flatterers, that speak contrary to their own Sense and Judgment.* And after having prov'd that Kings were originally constituted by the Consent of the People, and that they are subject to the Laws, whereof they are only the Executors, he adds, *But if we see a King that contemns the Laws, takes away his Subjects Goods by Force, forces Virgins, abuses married Women, subjecting all things to his Lust and rash Humour; will not the States in this Case, being met together, depose such a Prince from his Throne, placing another there, who shall swear to govern well and obey the Laws? Surely, as Reason tells us, it ought to be thus: So we see that Practice in such Cases confirms it.* I the rather quote this Authority, because it confirms a Maxim acknowledg'd by all the Ambassadors, Bishops and Deputies of the *Western Church*, and by those of *England* in particular, who were present at that Council, and did not in the least question the point; whereas it is very probable, the Ambassadors of *England* would have oppos'd it, if they had thought it contrary to the Laws and Custom of their Country. But indeed, with what face could they have objected any thing against the truth of this Maxim, when but fifteen or sixteen years before, *England* had depos'd *Richard II.* laying down as an unmovable Ground, That he was so far engag'd to keep the Oath he had sworn to his People at his Coronation, that having broke several Articles thereof, and being consequently convicted of Perjury, they were no longer oblig'd to own him for their King. We have in *Knighton* the whole process of his Deposition, which deserves to be consider'd by us in its Principles and Conclusions, as being such, which I scarce believe any dare deny; and the Examples thereof have been so frequent in other Kingdoms, that *Mariana* in his Book *de Rege, lib. 1. c. 3.* dedicated to King *Philip III.* examin'd by his Order, and printed with his Privilege by his Printer, was not afraid to assert, *If a Prince by his ill Government brings the State into Danger; if he be a Contemner of his Country and Religion, and will admit of no Remedy, that then he ought to be Abdicated, and another to be substituted in his room, as has often been done in Spain; and must justly suffer as a wild and ravenous Beast, expos'd to the Darts of all; because divesting himself of Humanity, he is turn'd Tyrant.*

I know there are a sort of People, who suppose they can knock off these Examples and Authorities all at once, by boldly asserting that these Customs and this Doctrine are only the effect of Popish and Jesuitical Errors. But pray let such consider, 1. That those of the Reform'd Religion in all places, and particularly in *England*, have always approv'd them, as I shall make appear in the sequel. 2. That the contrary Opinion ought rather to pass for a Popish and Jesuitical Opinion; because it is certain, that those who first maintain'd it, whatever aversion they might pretend to have against the Jesuits, did defend it in favour of the Jesuits, and to promote their Pretensions; who without this Opinion, could never so securely have advanc'd their Designs. 3. If this Opinion be once admitted, it will inevitably

(a) *Frangenti fidem, fides frangatur eidem.*

follow, that neither in *England*, nor any other part of *Europe*, there is or can be any lawful Sovereign whom the People are bound to obey, those who reign at present having no other Right but what they have deriv'd from Princes substituted in the room of those that have been depos'd by the State.

This being premis'd, 'twill be easy to see thro the Objections some have made against the word *Abdicate*, made use of by the Convention. It plainly appears, that the Commons by that term meant nothing else but to express King *James's* actual Renunciation, by abandoning the Government, rather than consent to those equitable Conditions offer'd to him, if he had been willing to return to his Duty and keep his Oath, whereby he stood engag'd to his People. It cannot be asserted without extreme impudence, that *James II.* was ignorant of the occasions of Complaint he had given to his Subjects since his coming to the Crown, the Trial of the seven Bishops, and the Prince of *Orange's* Declaration having in general touch'd at the Breaches made upon the Law. The Bishops also presented a Memorial to the King, wherein they mention'd the chief Grievances the State labour'd under, in ten Articles; and he was so far convinc'd of the Equity of their Demands, that to reconcile those whom he had made averse from him, he began in appearance to re-establish some of the Laws he had overthrown, and to undo some of his unjust and arbitrary Proceedings. Yet after all it appears but too evidently, that in all this there was nothing of Sincerity; for he did not think fit to give any Satisfaction as to that point, which was the greatest Grievance of all, but continu'd in the Resolution of challenging to himself a Power to dispense with the Laws: So that whatsoever he had, during the pressure of his Affairs, repair'd, might as easily afterwards be overthrown again, as soon as the danger which threaten'd him was blown over. And all the Laws since *Henry VIII.* which are the foundation of the Government, were always in the same danger of being repeal'd, at least dispens'd with at his Pleasure. If this had not indeed been his Case, it had been easy for him to have calm'd the Troubles he had rais'd, and continu'd in his Kingdom in Peace and Safety. But having fix'd his Resolution, and Necessity pressing him to alter his measures, he chose rather to quit the Kingdom than his Resolutions. Now that all this is not spoke by Conjecture, appears from his own declar'd and avow'd Principles; for after his return from *Feverham*, was it not fit he should immediatly have declar'd, that he had chang'd his Resolution, purposing for time to come to rule according to Law, and openly renouncing the Arbitrary Power he had arrogated to himself? Was not this the time for him, in pursuance to the earnest Sollicitations of his People, to declare he would refer all things to the Decision of a Free Parliament, and to send out the Writs for their Election, which he had kept back? Surely a small stock of Prudence, had he inclin'd this way, had been sufficient to have shewn him, that this was the nick of time to put an end to the Fears and Complaints of his People, and confirm himself in the Throne: Whereas instead of taking this natural and ready way, and instead of acquiescing in those equitable Conditions which the Commissioners he had sent to the Prince of *Orange* had brought him, and which he seem'd to have approv'd as both just and advantageous to him; he still continu'd in the design of retiring himself, and to leave *England* rather than to change the measures he had taken to oppress them. If we judg without prejudice of this his Retreat, it is natural for us to conclude, that not seeing any possibility of effecting his Designs in *England*, he thought best to retire to *France*, and from thence to invade *Ireland* or *Scotland*, there to prosecute his first-fix'd Design; hoping that after a more easy inducing of those Kingdoms (in the state he had put them) to arm against *England*, he might easily oppress that Kingdom also, and reduce them to that Condition, as nothing more should be an Obstacle to his Arbitrary Government. When a Prince has overthrown the Laws, and employ'd unlawful Arms to maintain this his Usurpation; if those, who by their Rank and Interest in the State are engag'd to oppose themselves to his Violence, oblige him either to betake himself again to the ways of Justice, from whence he has departed, or to quit the Government; is it not evident that he renounces the Government, by refusing to change his former unjust and illegal Courses? Whether he departed out of fear, or any other motive, is not material to this Enquiry: but certain it is, that *James II.* having done both, rather chose to retire himself, than to part with the Resolution he had taken to overthrow the State; being so far from acquiescing in the Remonstrances that had been made to him, and from calling a Parliament, to which he had been so earnestly solicited, and for which he had engag'd his Word, that on the contrary he abandons the Govern-

Abdication explain'd.

K. J.'s Actions unjustifiable in many Instances.

K. J. renounces the Government, refusing to govern by Law.

ment, and casts himself into the Arms of a Prince that is an Enemy to the Government, and who has always endeavour'd to subvert their Laws and Religion. It follows therefore, that he has really *Abdicated* the Government, as the Parliament have declar'd.

Tyrants to
be depos'd.

Neither can any difficulty be rais'd here concerning *James II.* his abandoning of the Government, because his Retirement was not altogether voluntary, but rather by a kind of Force and Constraint. For as it is most true, that the Essence of things doth not depend on their Formalities; and that it cannot be denied, but that he has always retain'd, and still doth, his Design of overturning the fundamental Laws of the Government, having to this end kept up a Standing Army, contrary to the Laws; and not being able to bring about his end, has cast himself into the Arms of the *French King*: All which being evident beyond dispute, the circumstance of his (in some sort) involuntary retirement, which with so much Affectation is exaggerated by some, will be found of no moment. *If the People have Power to constitute a King, they who have made him so, may without any Injustice either lay him aside, or curb his Exorbitancy, in case he attempts tyrannically to abuse the Power Royal*: Which is the Opinion of *Thomas Aquinas*, in his Book dedicated to the King of *Sicily*, l. 1. c. 6. *Neither are we to believe, that the People, in deposing of a Tyrant, are guilty of any breach of Faith or Disloyalty, tho they had formerly by Oath oblig'd themselves to him, because he deserves that his Subjects should not keep the Faith they had promis'd him, forasmuch as he hath not carried himself faithfully in ruling his People, as the Duty of a King requires; as the same Author continues in the forecited place. Cardinal Aureolus teaches the same thing, in 2 Dist. 44. q. un. Art. 3. We perceive from hence, that a King may play the Tyrant over his Subjects, as having no Superior to whom they can appeal from him: Wherefore if it happens in a City or Community that the Prince turns Tyrant, if he have no Superiour, in this case the whole Community may justly, and according to right Reason, join together to reduce him to Reason; or if he proves incorrigible, for ever depose him. Grotius clearly asserts the same Doctrine, de Jure Pacis & Belli, l. 1. c. 4. §. 13. If a King, saith he, have one share in the Sovereign Power, and the People or Senate another; if the King entrench upon the Power of the People, he may be justly oppos'd, as extending his Power beyond its bounds: and this I judg ought to take place, notwithstanding what hath been said before, that the Power of waging War is in the King; for that is to be understood with respect to foreign War, it being self-evident, that he who has a share in the Sovereignty, must needs have a Right to defend and secure the same: And where this happens, it is as plain that the King may lose his share in the Government by the Law of War.* This Doctrine not only shews that the *English* have justly taken up Arms to oppose the Invasion of their Rights and Privileges, but also that *James II.* who had invaded them under Covert of an Army rais'd contrary to Law, persevering in his design of abusing the Royal Power, and chusing rather to leave the Government, than to return to the bounds of Law and Justice; we cannot, without incurring the censure of Vanity, trouble our selves any further about enquiring, whether this his quitting of the Government was more or less voluntary. When King *Edward II.* being taken Prisoner, and depos'd for following the Counsel of the *Spencers*, was oblig'd by the Parliament to abdicate the Crown, which they bestow'd upon his Son *Edward*; Historians tell us, that he refus'd to consent to any such Abdication: however, because he express'd himself as beholden to the Parliament for conferring the Crown on his Son *Edward III.* the Parliament either satisfy'd themselves with the Acknowledgment as a kind of Abdication, or forc'd him to agree to a formal one, as indeed such an one was formerly to be seen amongst the Rolls of Parliament. Shall we be so weak to think, that the Parliament did much concern themselves, whether this Abdication was more or less voluntary? It appears it was done in a Prison, and after so much repugnancy on the King's side, that it was but too evident he would never have consented to it, had he been at liberty to have made his choice, but would have always continu'd in his design of confounding the Government, as he had done before. It is therefore apparent, that whatsoever was done on this occasion by the Lords, who went to the King to demand this Abdication of him, was only to satisfy the Queen; and his refusal would not at all have hinder'd them from passing the Act, by which he was afterwards depos'd.

K. Edw. II.
abdicates.

Vacancy of
the Throne
explain'd
and justifi-
fy'd.

The third point concerns the *Vacancy of the Throne*, which seems to overthrow the Notion of Succession, and that common Saying in successive Kingdoms, *That the King dies not*. To which may be answer'd, 1. That this Saying has neither all the Truth, nor all the Use which is commonly attributed to it: Sure it is, that it is founded

founded on a new Notion, viz. That the Coronation of a King is only a simple Ceremony; whereas in antient times the Reign of Kings bore date from the day of their Coronation; *Du Tillet* the French man affirms it was so in France, *Recherches*, l. 2. p. 154. And the Learned avow the same concerning the Kings of England; of which if any desire to be further satisfied, they need only consult the publick Records of this Kingdom. Besides, we know that the death of a King puts an end to the Authority of Judges derived from his Commission; which could not be so, if the Royal Authority did not die with the King, and revive again upon the declaring of his Successor. However it be, it cannot be denied but that the Commons have express'd themselves with a great deal of Prudence and Precaution; and it is matter of wonder, that those who have censur'd this Expression, did not consider, that it was not possible to make use of a more proper Term in those Circumstances. It preserv'd the Notion of Kingly Government, which they thought necessary to preserve; it implied that the Throne was to be fill'd some way or other, whether by placing the next Heir upon it, or to place the Prince of Orange with the Princess, as afterwards was done. We may also observe, in justification of the wise Conduct of the Commons, that the pretended Prince of Wales was so generally taken for a supposititious Prince, that even amongst those that declar'd themselves for a Regency, there were very few that were not for rejecting him; some of them, for that supposing he were legitimate, yet being educated in the Popish Religion, he would be no less incapable of the Government, than his Father James II. And others, because the Jealousies of his being supposititious, were much increas'd since his being carried into a foreign Land, and Enemy to the Government. Now what more rational Conclusion could in this case be resolv'd on, than to declare the Throne vacant?

But, say some, suppose the Prince of Wales ought to have been excluded as Supposititious, which was in the power of the Convention to do, had it not been more natural to have follow'd the Law of Succession, which supposeth that the Throne cannot be vacant as long as there are lawful Heirs, whose Rights we have sworn to observe, by swearing Allegiance to James II? This Objection, tho at first sight it may seem of some moment, yet narrowly lookt into, is of no solidity at all. For First, it is certain that a King who forfeits his Kingdom upon the account of being a Tyrant, at the same time forfeits his Rights, both as to himself and Posterity. Indeed common Sense assures us, that a State which has been oppress'd by the Tyranny of a Father, ought to apprehend nothing more than the Succession of his Children. Rome was very sensible of this, when she destroy'd the Family of the Tarquins for their Father's Crimes, notwithstanding they had chosen that Family to be their Sovereigns. Tyranny cannot be exercis'd by one alone; wherefore a Government that would secure it self from the Evils incident to the Succession of a Son, descend- ed from one so dangerous to the Community, are oblig'd, at the same time they free themselves of the Oppressor, to exterminate a great number of those, who by Interest, Compliance, or other Motives, have been the Instruments of the Father's Oppression, and who might probably introduce it again, having a Sovereign disposed that way.

How a K. forfeits the Rights of his Posterity.

Secondly, It is not true, That the Oaths whereby we stand engag'd to the King and his Successors are absolute Oaths, and suffer no restriction: For it is evident they are conditional, and that they imply, that the Father to whom the Oath is sworn shall govern the Kingdom according to the Laws prescrib'd to him. These Oaths are an Expression of the Confidence the People have in the reciprocal Fidelity of their Prince, to whom they swear Allegiance; but cannot be of any larger extent than the Oath sworn to the Father, which Oath is conditional. The Promise made to the Posterity of a man supposeth the Father's faithful performance of his Promise, and his Posterity's capacity to govern the State; for they may become incapable of governing several ways. Bishop *Bilson*, p. 240. agrees, that extreme Weakness and Folly, or Phrenzy, are sufficient Causes to deprive Princes of their Right of the Sword. He maintains, That if the lawful Heir of any Crown be a Fool, or if he who is crown'd afterwards becomes distracted and besides himself, the Kingdom may proceed to the Choice of another by common Consent and Advice: He doth not say, That in this case it is necessary to set a Tutor over him, but to substitute another in his place. Let us take a view of another Case, that is yet more considerable. If a Prince hath, during his Father's Life, engag'd himself in a League with the Enemies of the State, and left his own Country with design to invade it at the head of its mortal Enemies, shall we say, that be-

Oaths to Kings are conditional, and not absolute.

Reasons for laying aside Kings.

cause he is the eldest Son, the People are oblig'd by their Oath to admit him for their King, to resign themselves to his Conduct, and acknowledg his Authority? I alledg this Example (which by the way justifies the Proceedings of the *Westminster* and *Oxford* Parliaments about the Exclusion of the Duke of *York*) only to make it appear how far we are mistaken in maintaining, That the Oaths which include the Heirs of the King to whom Allegiance is sworn, are absolute Oaths, and such as admit of no restriction.

Wm the
Conqueror's
Children
consider'd
as to their
Succession.

Vacancy
explain'd.

Thirdly, Those who are acquainted with the History of *England*, must needs confess the Truth hereof. We know that *William* the Conqueror left four several Sons at his death, the eldest *Robert* Duke of *Normandy*, who had been then five Years in the Holy Land; and *William* the third Son, who was at that time in *England*, and whom the Parliament chose, to the prejudice of his elder Brother, for their King, upon his solemn Promise to reform the Disorders his Father *William* had caus'd in the Government, and which he had kept up by his being almost continually in Arms. Shall we say, that in this Interval between the death of *William* the Conqueror, and the Coronation of *William* II. the Throne was not vacant? If by virtue of the Oath sworn to *William* the Conqueror for him and his Heirs, the Throne was fill'd, how could the *English* be said to fear the (a) tottering Condition of being long without a Government? as *Matthew* of *Paris* expresses himself. And if they thought themselves engag'd to *Robert* by Oath, how was it they so unanimously proceeded to the Election of *William* II? It is apparent that they acted thus from this persuasion, That tho they were engag'd to take one of *William*'s Race to be their King, yet were they not bound to take the eldest; as fearing from his former behaviour, that he would follow the steps of his Father, and continue to oppress them. There be two sorts of Vacancies; one which the Canonists call *True*, and the other *False* or *Interpretative*. A Bishop that is turn'd Heretick, the Fact being so notorious that it is not necessary to proceed to a Trial, his See is thereupon without any more ado declar'd vacant; according to which Rule the Vacancy as to *James* II. is evident. But in cases where there can be no Succession without a mutual declaration of Engagements, whereby the Successor binds himself to his People, we must of necessity own that there is a kind of interpretative Vacancy during that interval. The Condition of a Kingdom is very different from that of a particular Inheritance: For tho it be in the hands of a Prince, yet it is not in his power to alienate it; neither can he possess it but under certain Conditions impos'd upon him, and for the performance of which he takes a most solemn Oath; he cannot enjoy the Crown with the Prerogatives thereof, without performing the Duty he has bound himself to: and in case he should tell his People, that he doth not think himself bound by his Oath, and openly declare, that he is resolv'd to break the Laws, and oppress his Subjects, I don't believe any can be so stupid as to imagine, that after this Protestation his Subjects are still oblig'd to acknowledg him their lawful Sovereign. This being so, we must acknowledg that the Convention (especially considering that the absence of the Princess of *Orange*, who therefore could not, during this interval, take upon her the Care of the Government) had all the reason in the world to pronounce the Throne vacant.

Moderation
of the Con-
vention-
Parlia-
ment.

Fourthly, We find that after all the Convention have carried it with that moderation, that they have very little or not at all entrench'd upon this prejudicate Opinion: for they plac'd the Prince of *Orange* with the Princess his Consort on the Throne; 1. With the Consent of the Princess her self, who could never think to sit so sure there, if she were not assisted by the Valour and Heroical Qualities of the Prince her Husband. 2. Without entrenching upon the Right of Succession, which they have kept in the same Channel, so as the Princess *Anne* has all the reason in the world to be satisfied with the regard the Convention has had for her Interests. 3. They have given another mark of the care they had to preserve the Succession, because they postpone the Children of the Prince of *Orange* by another Wife, if he should out-live the Princess his Consort, to the Heirs of the Princess *Anne*. Let us compare the great Care of this Convention, with the Proceedings of that Convention which made choice of *Henry* VII. to the prejudice of the Princess *Elizabeth*, who was the next Heiress, and swore Allegiance to him before he was married to that Princess; and we shall find that the present Convention has made use of its Right with a great deal more moderation, than was done at that time, and in Circumstances that bear a great resemblance with ours.

(a) *Diu sine Regimine vacillare.*

These Proceedings of the Commons having been approv'd by the greatest part of the Lords, and these two Bodies which represent the whole State having agreed in maintaining the Maxims I have laid down, it would be a hard thing to imagine how any Scruples could be left in so easy and evident a matter, did not we know the strange efficacy of Prejudice upon the Minds of men. It was proper for those who have propounded their Sentiments in either of these Bodies, whereof they are only Members, to conform themselves to the Resolves of their Body, there being no other means to give Peace to a State, than that the lesser number in all Assemblies give way and submit their Judgment to a Plurality. It is lawful indeed to oppose a Resolution before it be determin'd, but there is no disputing of a Resolution carried by a Majority: If any will needs protest, to shew that they have no share in the Resolve, and thereby signify to Posterity, that they foresaw the ill Consequences of it, they may do it; but after all, they must submit themselves to the Law the Plurality has ratified. I do not see how any other way can be thought of to preserve the Government under which we are resolv'd to live. To say that we are willing to own the Government and obey it, but cannot for all that swear we will do so, is a thing repugnant to common sense: For how can we refuse to promise to do a thing in the Presence of God, which we are resolv'd to do? And to say, that we suppose we may live under a Government, without promising Obedience to it, is the most monstrous and incongruous thing in the world: And I question whether any man can be so stupidly ignorant in the Affairs of Life, as to imagine that any Government should be satisfied with such a Disposition in its Subjects.

I doubt not but those who by their Scrupulosity have suffer'd themselves to be drawn in, not only to protest against these Proceedings of the Convention, but also to express their backwardness to take the Oaths requir'd of them, think themselves to have good reason for their so doing; tho indeed it appears that their Scruples are supported by nothing but mere prejudice. Some think the Church of England entertains other Sentiments concerning the Rights of Sovereignty, than all other Divines, whether Papists or Protestants, do; and that, according to her Hypothesis, it is never lawful with Arms to oppose the Enterprizes of a King, who in all his Conduct shews himself for Arbitrary Power, or to lay him aside. Others again believe, that this their Doctrine has now obtain'd the force of a Law, since the Long Parliament was pleas'd to pass an Act somewhat to that purpose. Yea, there are some who maintain, that the Allegiance they have sworn to *James II.* does in Reason and Equity hinder them from engaging their Fidelity to King *William* and Queen *Mary*, as the Parliament has decreed. These are the most considerable Difficulties which hinder some scrupulous and nice Persons from acquiescing in the just and wise Determinations of the State. We may justly say this in favour of them, that they propose these Difficulties with all the Modesty imaginable, and seem very far from condemning the Sense of the Publick, or from the least inclination of troubling the Peace of the Government, which gives good hope they will be the more easily satisfied.

That the Church of England does maintain Opinions concerning the Rights of Sovereignty different from what are receiv'd by all the rest of *Christendom*, whether Papists or Reformed, is a strange supposal. What proof can they shew us, to make us believe, that the Church of England, in a matter relating to Policy, should undertake to oppose the Definitions of all the wisest Lawyers, in condemning the Right which People have to rid themselves from the Oppression of Tyrants? Whilst all others of the Reformed Religion agree with the Divines of the Church of Rome in this point, which depends only on the knowledg of the Constitution of Governments, and about which the Gospel affords us none but very general Rules; for, as Dr. *Hammond* saith, Jesus Christ does not meddle with the Temporal Government of this World, on 1 Cor. 7. 22. What reason had the first Reformers in England to maintain this Paradox, in favour of those Princes who govern tyrannically? None but Flatterers and fawning Courtiers have front enough to undertake the defence of a Cause, and Maxims, that change Free-born People into mere Slaves, as *Aneas Sylvius* observes very well; and shall we dare to put such a mark of Infamy upon those illustrious Reformers of this Church, by fathering upon them so strange and degenerate an Opinion? I readily acknowledg, that with other Reformers, they have highly maintain'd the Authority of Princes, against the Popes pretended Authority, who now, for these six Centuries, has arrogated to himself a Right of deposing Kings: but who sees not, what a vast difference there is, between maintaining that the Pope has no such Power, and asserting the Right of Kings,

Groundless
Scruples.

Doctrine of
Passive O-
bedience
unjustifi-
able.

Oaths of
Allegiance
and Supre-
macy made
in opposition
to Popery.

Kings, in opposition to that unjust Pretension; and holding in opposition to what *Bar- tolus*, and all others learn'd in the Law say, That a People who are oppress'd by a Tyrant, under the venerable Name of a King, have a Right to deliver themselves from Slavery? The Oaths of Supremacy and Allegiance were at first prescrib'd only in opposition to this Doctrine of the *Romish* Church; and if we find any where that the *English* Reformers in the foregoing Age, have writ that the People cannot break the Oath of Allegiance sworn to their King, it was only to beat down the unjust Power the Pope pretends to, of absolving Subjects from their Oath of Allegiance, upon their being Depos'd or Excommunicated by him. What I here affirm is so true, that Bishop *Jewel*, in the Defence of his Apology, p. 16. takes the part of *Luther*, *Melancthon*, and other Reformers, who were falsely accus'd of fomenting the Rebellion of Subjects against their Princes; and maintains, that the Example of *David*, fighting against *Saul* for the saving of his own Life, did justify their Opinion in that point, as well as the proceedings of the Protestant Nobles in *France*, who had taken up Arms in defence of the Laws and their Religion.

Bp Bilson's
Opinion a-
bout Re-
sistance.

Bilson, Bishop of *Salisbury*, highly asserts, That it is Lawful to resist a Prince, who changes the Form of Government into Tyranny; or who disregards the Laws enacted by the consent of Prince and People, in prosecuting of his Lust: He maintains, I say, in this case and some others, that if the Nobles and Commons join themselves in defence of their Antient Liberties, their Laws and Government, they cannot be accounted Rebels. He asserts also in the same place, that the People may preserve the Liberty, Fundamental Laws, and Form of their Government, which they forepris'd when they first consented. It is clear then, that if our Learned Bishop were yet alive, he would not at all be offended at that Principle of the Commons, that there is an Original Contract between the King and his People, *Bilson* p. 520. last Edit. Bishop *Jewel* and Bishop *Bilson* indeed were only private Persons, but what is far more considerable, the whole Body of the Clergy in the Reign of Q. *Elizabeth* consented to a Subsidy towards supporting the *Scotch* Protestants, oppress'd by their Queen, assisted by *France*; and relieving the States of *Holland*, when they shook off the Yoke of *Philip* the Second; as well as the Protestants in *France*, who were oppress'd and persecuted contrary to the Laws, and the Faith of solemn Oaths; as appears from several Acts of the Clergy in the Convocations held under Queen *Elizabeth*. Shall any one say, that the whole Clergy were then of opinion, that it was Lawful to contribute to the assistance of Rebels, against their Lawful Princes? Or is there any other way left to justify them, but by supposing, that as it was Lawful for the *Scotch*, *French* and *Hollanders* to defend themselves against Oppression and Tyranny, so was it also to assist them with Money in this their just defence?

Bp Abbot's
Opinion a-
bout the
same, and
Justificati-
on of the
Fr. Pro-
testants.

Thirdly, *Robert Abbot*, the King's Professor at *Oxford*, and afterwards Bishop of *Salisbury*, publish'd in 1603 his Treatise, entitled, *Demonstratio Anticristi contra Bellarminum*. In the 7th Chapter of this Piece, to refute *Bellarmino*, who maintain'd, that the Protestants of *France* had been destroy'd by the Effects of the Civil War, which their Rebellion was the cause of, and not by the Persecution of Papists; after having prov'd that the Papists had in time of Peace destroy'd an infinite number of them, who could not be accus'd of having taken up Arms, he lays down, First, that probably this their barbarous Dealing with the Protestants might be the occasion of the Civil War; but that the Protestants had not taken up Arms to oppose the violence of their Persecutors; yet having been so barbarously and cruelly dealt with, against all Law and Equity, they judg'd they did nothing but what they were allow'd to do by the Laws of their Country. 2. That the Papists who perish'd in that War, had been justly kill'd, because they had taken up Arms against the Publick Faith, against Edicts and Covenants, against the Laws of their Country, against the Prerogative of the Nobility, against the Immunities and Privileges of Cities and Corporations; and all this either by reason of the unjust Usurpation of Princes, or by the licentiousness of some factious Persons. 3. He asserts, that the Right of a Prince over his Subjects is a Political Question, which must be discuss'd by the Fundamental Laws of each Government; according to which we are to judg whether the Prince has an infinite and unlimited Power, or such as is temper'd and allay'd more or less by the Will of the Lords and People. 4. He lays down also, that the *Roman* Emperors having an unlimited Power, insomuch that the Lives and Laws of their Subjects did depend on their Will and Pleasure; this was it put the Christians under a necessity of suffering, without being able to take up Arms against them; but that the Case of the *Dutch*, *French* and *English* Protestants was very

very different, whose Princes had only a Power bounded by Law; which Bounds whenever they transgress, the Nobles and Gentry may lawfully repel an unjust Force, and cast off the Yoke, which by violence, and against Law, has been put upon them. He maintains also, that the King of Spain holding the Principality of the Low Countries only by Agreement and Covenant; upon his breaking of that Covenant, and acting proudly against his plighted Troth, it was judg'd that by so doing he had divested himself of that Principality; and that consequently the United Provinces were free to take up Arms against him, and deliver themselves from his Tyranny.

The Dutch justified in their taking Arms against Philip II.

5. He asserts the same thing with respect to the Protestants of France, grounding his Assertion upon the Constitution of that Government, where the King's Power was at that time limited, and restrain'd within narrower bounds than now it is, since the abolishing of the Estates General. 6. Concerning England he expresses himself in these terms: *In like manner, our Church, after that she had continued a great while in bondage under Antichrist, without any worldly assistance, and begun, thro the Mercy of God, to lift her head above Water, and had obtain'd a security by Law, the Nobles and Gentry taking her part; she now began to make use of her own strength, and by taking up Arms to vindicate her Religion, now secur'd to them by Declarations, Laws and Privileges, from the unjust oppression of Tyrants.*

It seems to me that if any one should have entreated this famous Doctor, who from the Chair of King's Professor was promoted to the See of Salisbury, to give his judgment concerning the matters now in question, he could not have spoken more to the purpose, or more solidly and strongly overthrown the ungrounded prejudices of some Divines, which we cannot but look upon as the only foundation of the Scruples that at this time disquiet the Minds of some good men.

Fourthly, We likewise see clearly that our judicious Hooker in his *Ecclesiastical Policy*, Book 1. chap. 10. maintains, that all Civil Governments in the World are deriv'd from the Deliberation, Consultation, and Consent of the Parties concerned, and that consequently the Power of making Laws belongs to the Body of the Community; and that it is mere Tyranny for any Prince to arrogate this Power of imposing Laws, except the same be exercis'd by virtue of Divine Authority personally and immediately granted to the Prince (which never had place but in the Kings of Israel) or by the Authority at first deriv'd from the consent of the People. The same notion we also find in *Peter Bertrand*, Cardinal, concerning Civil and Ecclesiastical Power, which shews that Reason always speaks from the same grounds; and all put together, is an evident proof that there is nothing in the Articles or Canons of the English Church that is contrary to the Opinion of other Divines in this matter. It will be to little purpose to object against what I have now said, the first Canon agreed upon by the whole Clergy in 1640. *For Subjects to bear Arms against their Kings, offensive or defensive, upon any pretence whatsoever, is at least to resist the Powers which are ordained of God. And tho they do not invade, but only resist; St. Paul tells them plainly, They shall receive to themselves damnation.* But this Canon tho indeed it be couched in very general terms; yet it doth not reach the point in question (not to say that it is not allow'd, and therefore of no Authority) For first, it speaks of a King, that has not divested himself of that Character by a Despotical management of the Government, whereof all his Subjects are Witnesses. 2. It makes no mention of the Body of the Government, but simply of Subjects, that is, private Persons, who may oft alledg specious Pretences for their Rebellion, and who may have just occasion to complain of the Power which oppresses them. And certainly, whatever may be the Judgment of some Divines of the English Church, who have, these fifty years last past, writ concerning these points in a different manner from what the first Reformers of that Church have done; it is evident beyond dispute, that the Body of that Church have never been carried away with the Mistakes of these new Divines; as may be made out by the following three Reflections upon the Conduct of the most famous Members of that Church.

Hooker's Opinion about Original Power.

Thus we see, that when King James II. having understood the Arrival of the Prince of Orange at Exeter, sent for the Archbishop and Bishops that were then in or near London, for to engage them to publish an Act of Abhorrence of the Prince's Undertaking, and against the Union of the Lords who had solicited his Aid and Assistance; those Prelates very generously refus'd to publish any Act of that nature. What other reason can we conceive they had for justifying their refusal but this, That being persuaded in their Consciences, that the King had carried himself with much injustice towards the State, and that the Prince and Lords that join'd with him might of right oppose by force a Violence arm'd for the destruction of the

The Bishops refuse to declare against the P. of O.

the Laws and Government, they could not give a publick Testimony of abhorring this their Enterprize? Who can question but that they were well acquainted, that the Laws of *England* were not opposite to the Doctrine of their Church? Now the *English* Learned in the Law read in *Bracton*, l. 2. c. 16. and in *Fleta*, l. 1. c. 17. these memorable Words: *In governing of the People the King has above him the Law, by which he is constituted King, and his Parliament, viz. the Earls and Barons; the Earls in Latin being call'd Comites, that is, Companions and Fellows: Now he that has a Fellow, has a Master; wherefore if the King become lawless, they must give him Law, and curb him.* When we speak of curbing a King, who is in Arms in order to oppress the State, it is evident, that it imports an obliging him by force, either to renounce his tyrannical Courses, or force him to leave the Land.

Act with
the other
Lords at
Guildhall.

The second step of the same Prelates makes it appear, that we have not drawn an undue Consequence from their refusing to publish an Act of Abhorrence; for no sooner had *James II.* quitted the Government, but they accompanied the other Lords at *Guildhall*, where they return'd publick Thanks to the Prince of *Orange* for having deliver'd the Government from Popery and Slavery. Now 'tis apparent, they could not have done so without supposing, 1. That the Arms taken up by the Prince of *Orange* and Lords against *James II.* were just. 2. That he might be lawfully attack'd, and forc'd to Reason by the Arms of those, to whom they address'd their Thanks for having taken them. 3. That his withdrawing out of the Land was an open Proof of the Character of a profess'd Enemy of the State, which he had evidenc'd to the last, and was now going to give the marks of it abroad, by making use of foreign Arms when other means fail'd him. 4. That they were oblig'd of Right and in Duty to join with the Prince of *Orange*, to repel the Force of a sworn Enemy to the State; whom neither Reason nor the Misery to which he was reduc'd, could withdraw from the Design he had form'd to ruin the Laws and his Subjects, in order to establish Popery. I refer it to the Judgment of all equitable men, to consider whether I wrong these Reverend Prelates, in drawing these Consequences from their Proceedings, and by supposing that they are directly contrary to the Opinions some will needs affix to the Body of the Church of *England*; when it is apparent, that they could not have more solemnly disavow'd them, than they have done by these their Actings.

Their Ex-
ample fol-
lowed by
many o-
thers.

Nor is this all, but these great Examples given by the Prelates have been almost generally followed by the inferior Clergy; some, and those the most considerable amongst them, having ingag'd themselves in Acts of Association; others having express'd to the King and Queen the marks of their Duty and Fidelity, both publickly and privately, as well in Acts of Religious Worship, in which it cannot be thought they should dissemble, as in Political and Civil Actions, as far as their Function permits them to have a share therein. This appear'd more especially in the choice of Members for the Convention, in the publick Prayers for the King and Queen, and by the Writings some have publish'd in defence of the Proceedings of the Convention and Parliament: All which Testimonies being so publick and general, make it clear as the Sun, that it is an imposing on the Church of *England*, to say that she has embrac'd an Opinion, which a few of her Members have maintain'd, without considering that it was a sure means to encourage and establish Arbitrary Power, and promote the Designs of Popery; which could never hope to succeed, but by Arbitrariness, and an overturning of all the Laws made in these Kingdoms for the preservation of the Government and the Protestant Religion. I acknowledg, that for these last fifty years divers Writings have appear'd in publick, which speak very differently of Sovereignty and its Prerogatives, from what the former Divines of that Church ever did. It hath been pretended, that Kings were such

Pretensions
of some for
a Jure Di-
vino and
Absolute
Power in
Princes.

Jure Divino, by Divine Right; that their Power in the Kingdom was unlimited and absolute; that they could not offend against the Laws, as being above them; that in successive Kingdoms, as *England* is, Kings as soon as born are possess'd of all the Royal Rights and Prerogatives; that the Heirs of a Crown have as real a Right to it, as a private Person has to his Father's Estate. In a word, they have proceeded to that Excess, as to maintain the Right of Kings to be a Right immediately confer'd by God himself; as if Commonwealths were no lawful Governments, nor the Emperor of *Germany* a lawful Prince, because he is made so by Election. But as we should much wrong the *English* Learned in the Law, should we suspect them to be the Authors of these Maxims, when we find Chancellor *Fortescue*, c. 13. asserting, *That the King is rais'd to that Dignity to defend the Laws, his Subjects, their Bodies and Estates; and that to this end he is intrusted with a Power deriv'd from the People,*

pe, so that it is not lawful for him to lord it over his Subjects by any other Power; as it was reported in Calvin's Case, Coke 7 Rep. fol. 5. Which agrees very well with the description of the Duty of a King, which we find in the 17th Chapter of St. Edward. So the Authors of these Books will not take it ill, that we cannot impute their extravagant Opinions to the Church of England. For 1. We find that Charles I. who understood the Tenets of the Church of England as well as any Prince could, did confess that his Power was bounded by Law, in opposition to what Dr. Ferne had maintain'd concerning it. Charles II. his Son own'd the same thing, upon occasion of dispensing with the Laws, notwithstanding that Bishop Sanderfon, in his Treatise of Conscience, attributes that Power to the King, who, as he saith, is the Maker of the Laws, and whose Power consequently cannot be restrain'd by them. 2. The seven Bishops, by their Remonstrance made to the King, openly avowed, that the King had no power to dispense with the Laws, forasmuch as that Power had been declar'd illegal by the Parliaments of 1662 and 1672. which shews their renouncing of that Notion, That the Laws being the King's own making, he may when he pleases dispense with them. This may be easily gather'd from the ten Propositions they offer'd to James II. in the beginning of October 1688. freely representing to him the Excesses he had been guilty of, and exhorting him to amend them. Who sees not that this Remonstrance is founded upon Principles directly opposite to those of these Novice-Divines, and is as proper to confound them, as it did James II. to whom they represented, with much sweetness, the Miscarriage he was resolv'd to maintain by force of those Arms he had taken up against Law? 3. I would intreat these modern Divines to compare a little these their Notions concerning Sovereignty, with those the Canonists have advanc'd in favour of the Papacy; for I have so good an opinion of them, that I believe they will blush as soon as they have made the Parallel. If we may believe the Canonists, they have the Scriptures, the Fathers, the Canons of the Church, and Reason on their side; and yet it is certain that Gratian, and some flattering Monks, are the only Authors of all the pretended Divine Right, of all this Superiority to Councils, of the Right of dispensing with the Canons, and of that Superiority to all the Laws of the Church, as has been of late very solidly prov'd by the Divines of the Church of England. Is it possible for any one to imagine, that of all the World, none but some few Divines of the Church of England could ever find in the Scriptures, in the Fathers, in Reason, in the Laws, those Rights which they advance, and which they propose to us, as bestow'd upon Kings by God himself? Is it possible it should never come into their Minds, to compare their Opinions with those of the Doctors of the foregoing Age, whose Hypothesis is so contrary to those they have endeavour'd to obtrude these fifty years last past? Is it possible they should not blush, to be term'd by Aeneas Sylvius the Flatterers of Kings; it being notorious, that a Flatterer imports a Man who has a design to deceive others, and to profit by the Folly of those he deludes by his Flattery? I heartily wish they may consider of it, if it were for no other Reason, but to prevent the Application might be made to them, from the Parallelism of their Opinion concerning Sovereignty with that of the Canonists concerning the Papacy; of the Judgment of Pope Adrian VI. who, after he hath set forth the vanity of the Proofs and Reasons of the Canonists for the Pope's Superiority to Councils, could not think of any other transcendent Reason, why the number of Canonists that hoisted the Pope's Power was so vastly increas'd, but this; because, saith he, Councils meet but seldom, and bestow no Benefices; whereas the Pope continues always, and has Benefices ready to gratify those that endeavour to please him.

K. Ch. I.
own'd his
Power
bounded by
Law.

No foundation
in
Scripture,
Fathers or
Councils,
for Jure
Divino, or
Non-re-
sistance
Doctrines.

The second Difficulty that gravels some scrupulous Spirits, proceeds from an Act of Parliament under King Charles II. conceiv'd in these terms; That it is unlawful for both or either of the Houses of Parliament to raise or levy any War, offensive or defensive, against the King. It seems indeed a hard matter to reconcile the Proceedings of the Convention with this Act of Parliament; yet if I may speak my Judgment of the matter, I think this Scruple also may be easily satisfied. 1. We must remember that the Law speaks only in favour of him who preserves the Title of a King, and not of one who divests himself thereof by his unjust and arbitrary Deportment. The Oath of Obedience, which the Bishops swear to the Pope, is couch'd in as binding terms as may be; and notwithstanding, they do not think themselves thereby obliged to obey the Pope after he is turn'd Heretick. And as Grotius has observ'd in the place before quoted, where the Sovereign Power is shar'd, as it is in England, it is always lawful for the Party whose Share is invaded, to defend their Right by force: And tho the Kings are invested with the power of waging

Act of
Parl. K.
Ch. II. re-
concil'd
with the
Actings of
the Con-
vention.

War, yet this cannot deprive the Body of the States of the Right of defending the Laws against him, when he makes use of his Power of levying Arms to oppress the Laws, without which the Peoples Rights and Privileges cannot be preserv'd. 2. The Terms of this Oath are to be understood, by comparing them with other Oaths made in opposition to the Pretensions of the Popes of *Rome*, to a Power of engaging Subjects in Rebellion against their lawful King, in case the Pope has thought good to excommunicate him.

K. Ch. II.
Designs in
passing that
Act.

But some will say, That *Charles* the Second had quite another End in promoting this Act, and passing it. If that be all, I am willing to grant it: for Popery was engaged at that time to overthrow all the Laws of the Land in order to set up her self; neither could Arbitrary Power (whereof he laid the Foundation) ever be establish'd, without taking away this Curb from Kings, and that fear which the Constitution of the Government had opposed to their illegal Enterprizes. For it has always been accounted lawful in *England* to oppose the overturning of the Laws: Wherefore I do not in the least doubt, but that the Papal Party designed this Law for their own proper use, when time and place should favour them, to the end they might the more securely destroy the Laws that curbed their Designs. We find another Act calculated for the same Meridian of *Rome*, whereby it was declared High Treason for any one to say that *Charles* the Second was a Papist; which notwithstanding was so great a Truth, that in 1670 he entred into a League with the *French* King, to re-establish the Popish Religion in his Kingdoms, and to overturn the Laws. See here the account Abbot *Primi* gives us thereof, in his Book printed in *Italian* and *French* at *Paris* with Privilege of the King, under the Name of *Count de St. Mayole*.

K. Ch. II.
his private
Engage-
ments with
France.

After that this Abbot had related the Endeavours of *Colbert de Croissy*, to engage King *Charles* the Second to make War with *Holland*, he adds, That he at the same time signed a *Secret Treaty* with *France*; and to make it the surer, the Dutches of *Orleans* his Sister came over to *England*, and propounded to him, in the Name of the most Christian King, to assist him (a) in securing to himself an Absolute Authority over his Parliament, and to establish the Roman Catholick Religion in the Kingdoms of *England*, *Scotland*, and *Ireland*. She proposed also the (b) reducing of the States General to the only Province of *Holland*; which would be an easy matter for two great and powerful Kings, united together, to accomplish; and that by this means the King of *England* should have *Zealand* for his share, to serve him for a Retreat in case of need. Seeing then we have reason to suppose that this Act was one of those which were suggested and promoted by the Favourers of Popery, whose intent was to subvert the Laws securely, and without the hazard of ever being called to an account for it; and that we ought besides to observe, that the Clause here alledged, is only a preliminary Introduction to the Act concerning the Militia, which thereby was put into the hands of the King; and that after all, the Preliminaries of a Law are never so narrowly examin'd as the Law it self is, nor consequently of the same Authority: It is evident that we ought always to restrain the Terms of the Law to the Intention of the Lawgivers. Let the Court then have design'd, as far as they could, to allow the King an unlimited Power, by expressing this Preamble in indefinite and very general Terms, Will it follow that this is sufficient to exclude a natural Case, which is always supposed to be excepted? I mean, the ruin of the Government and its Laws, without which it cannot subsist. Let the generality and comprehensiveness of the Terms be urged as much as they can, it will necessarily follow, That those who allow them so great a Latitude as to except the Case now mention'd, must acknowledg, That they have abused themselves in passing this Act, or that others have abus'd and impos'd upon them. Now it is evident, That an Oath drawn from me *dolo malo*, by fraud and deceit, in a Case that is in it self altogether unjust, and which I can never keep without destroying all the Laws that are necessary for the support of Justice, is of no force to bind me; which is the Decision Divines and Lawyers give in this Case. 2. It is yet more apparent, that this Oath will still be of less force to oblige me, when it concerns a Case directly opposite to the Constitution of the Government; which being regulated by the Laws, cannot preserve it self under Tyranny and Arbitrary Power, if the same may not be resisted. 3. It is certain, that the Proceedings of the Convention have

That Act
was contriv'd with
an ill Design.

(a) See the printed Relation of this whole Matter lately publish'd.

(b) See the *Mercure Hollandois*, Vol. 1.

Sufficiently made it appear, that this Exception is in nothing repugnant to this Act of Parliament of the 13th of Charles II. no not if we should suppose, that the Terms in which it was express'd, might have been capable of abusing those who had not sufficiently apprehended the Design of those Expressions. Let no body object here, That this Clause is necessarily excluded, because it was never excepted against in so many words: For to make this Objection of any validity, it would be necessary to suppose, that the Parliament could be able to grant a Law to Charles II. whereby he might surely and securely overthrow the Government; and moreover, that Charles II. should have been bold enough to require such a Law of them. Now either of these Supposals are so foolish, that the mentioning of them is sufficient to make out to any, that have never so little Wit or Reason, how groundless this Objection is.

I proceed now to the last Scruple some make to swear Allegiance to King William and Queen Mary, viz. That they do not think themselves freed before God of the Oath they have taken to be true to James II. They seem to ground their Doubt thus: Suppose they have been deceiv'd by the Oath they have taken to obey this Act of Parliament of the 13th of Charles II. What tho they have been maliciously impos'd upon? Yet certain it is, That they have sworn Obedience to it in good earnest, by which means their Conscience is become fetter'd, and oblig'd to perform what they have sworn to; whence it follows (as they conceive) that they cannot derogate so far from their former Oath, as to take this new one. I acknowledge that this Scruple seems to have some ground; for many Divines affirm, That Oaths extorted by force, do not for all that cease to oblige the Conscience. Thus they determine, That if a Man fallen into the hand of Robbers, for the saving of his Life, swears to pay them a Sum of Money, he is oblig'd to pay it honestly. But those who would make an advantage of this their Decision, must observe for their own Satisfaction, that the same Divines who maintain, that the Religion of an Oath sworn to God obliges a Man to pay to Robbers the Sum he has promis'd by Oath to them, do notwithstanding, in case of like nature, reason after a quite other manner, because of the Consequences it draws after it. If a Robber has forced a Person to swear that he will not discover the Robbery, or declare it before the Magistrate, Is he oblig'd to keep this Oath? Here they define peremptorily, that he is not oblig'd to keep his Oath; the reason is evident, because his Oath in this case is unjust: If he keeps it, he hinders the course of Justice; he encourages the Robber in his Crimes, he exposes his Neighbours to the same danger; he hinders the Publick from delivering her self of an Enemy, whom it is her Interest to destroy. This Decision therefore makes it apparent, that those who might keep their Oath, in a case only concerning their particular Interest, may not do so when the publick Interest is concern'd. Whatsoever force an Oath may be suppos'd to have, yet it must be acknowledg'd,

Taking the Oaths to K. W. and Q. M. justify'd.

No Obligation from the Oaths taken to K. J.

First, That an Oath about a thing unlawful doth not oblige; otherwise Herod would have deserv'd Praise for beheading John the Baptist. Now an Oath whereby I engage my self to suffer the overthrow of Religion and Government, without opposing the same to my Power, by preserving the Laws and Religion, is an Oath to a thing unjust and unlawful, as being destructive to the Government and to Religion.

An unlawful Oath not obligatory.

Secondly, That the State of Things and Persons being changed, necessarily carries along with it a change in the Obligation of the Oath. Common Sense taught Seneca, De Benefic. l. 4. c. 34. That for the obliging of any one to perform what he has promis'd, it is necessary that things continue in the same state they were when he made the Promise, because no body promises but upon a certain Condition; which being changed, he is neither a Liar, nor unfaithful for not performing it. Suppose then that we have promis'd to Charles II. all that the Act of the 13th Year of his Reign does import, because Charles II. had declar'd that he would observe the Laws, and not oppress either the Liberty or Religion of his Subjects; does it follow that therefore I am bound to keep that Promise to a Successor, whose carriage all along has evidenced, beyond a possibility of doubting, that he was resolv'd to overthrow the Laws of the Kingdom, and the Protestant Religion?

Thirdly, That reciprocal Oaths are dissolved and made void, by the non-performance of one of the Parties. Now it is apparent that this Act of Parliament of the 13th of Charles the Second is no other Oath but what is taken at the Coronation; tho the Papists have endeavour'd to bias it in favour of their Designs, and to make it a Support of Tyranny, which they were resolv'd to introduce, as appears

Reciprocal Oaths when void, and when obligatory.

from the Letters of *Coleman*, and several other Attempts, which have clear'd it to all the World: but this Oath supposeth the King ought to keep the Coronation Oath; which Oath he having violated, it follows that this Oath can no longer oblige those who have taken it; this being a thing I have already observ'd, I shall no longer insist upon it. To what has been said may be added, That they that harbour these Doubts, do not sufficiently consider the Party wherewith they engage themselves, and by their Example those also who rely upon their honesty. 1. How can they think it lawful for them in this case, to condemn those who represent the Body of the State, if they think themselves bound by the Authority of the Parliament of the 13th of *Charles II*? How is it they do not perceive that the present Convention and Parliament, being vested with the same Authority, are sufficient to discharge them of an Oath they have been made to take by any preceding Parliament? 2. Is it not a thing directly opposite to the Spirit of Christianity, for any to arrogate to themselves the examining of these Matters, or to engage every private Person in the ventilating of publick Declarations, which establish the Authority of Temporal Superiors? Suppose we that the Prince of *Orange* had invaded *England*, and that by Conquest he had obtain'd the Royal Authority, would not they have been obliged to submit to him in case they were resolved to stay in the Land, and to swear Allegiance to him if they would enjoy his protection? If they will not own this Truth, must it not follow that all the Bishops and People that have ever lived under Usurpers, have thereby made themselves liable to everlasting Damnation? Where doth God command every Christian upon pain of Damnation, to examine the Titles of those who make themselves Masters of a Kingdom? and how much less of those who have been exalted to the Royal Dignity, by those in whom the Authority and Trust of the whole Body of the Community did reside? What I here propound is a matter so incontestable, as well in the Commonwealth as in the Church, that on the one side a Pardon granted to Criminals, by a King who is only so *de facto*, is accounted irrevocable, when the King *de jure* returns to the possession of the Government he had lost, as we find it determined by *Coke*, 3 *Instit.* c. 1. f. 7. The Reason for it is demonstrative, because this Pardon proceeds from the Authority Royal wherewith he is invested. We have a like Case decided by Lawyers, and 'tis this, That those who assist a King *de facto*, are exempt from any Punishment, when the King *de jure* is restored to the possession of his Kingdoms; which is so determined by *Coke*, 3 *Instit.* c. 1. f. 7. On the other side the *English* Divines, who are most employed about the like Notions, as Bishop *Sander-son*, have clearly decided the Case of Conscience. Bishop *Sander-son* has writ a small Treatise on purpose, wherein upon occasion of the Engagement imposed in *Cromwel's* Time, and conceived in these terms, I do promise to be true and faithful to the Commonwealth of England, as it is now established without King or Lords; which raised Scruples in some like those we meet with at this time; he exhorts his Friend to take it, strongly maintaining and proving he might do it with a good Conscience. I would advise our scrupulous Gentlemen to read that small Treatise with attention, tho I cannot dissemble a palpable Contradiction it contains, when the Author supposes a Man may take that Oath, and yet preserve the Obligation he was under before, viz. of being faithful to the King. For my part I freely profess, I can no way comprehend how any Divines can scruple taking the Oaths of Allegiance to the King and Queen, when they attentively reflect on our Saviour's behaviour. The *Jews* believed, and that truly, that they were under a Monarchy immediately instituted by God himself: The Law of Sovereignty among them was, that the Throne could not be possessed but by one of their Brethren, that is, of their own Nation and Religion. The *Pharisees* building on this ground, rejected the Authority of the *Roman* Emperors, whom they look'd upon no better than Usurpers. Let us see how our Saviour decides the Controversy, wherein the *Pharisees* differ'd from the *Essenians*, who submitted themselves to that Foreign Power: He declares himself in favour of the *Essenians*, notwithstanding all the specious Pretences wherewith the *Pharisees* endeavour'd to defend their Rebellion. It is therefore evident, that tho we should suppose that *James II.* had been as immediately appointed to the Throne of *England*, as any of the *Jewish* Kings to that of *Judab*, so long as the Throne at present is filled by the King and Queen, we are obliged to obey, and consequently to swear Allegiance to them. What, did Jesus Christ our Blessed Saviour think himself oblig'd to own him for a lawful High Priest, who was made so by one of the Emperor's Commissioners, tho against Law, which order'd the eldest Son of the High Priest to succeed in his Father's place, only because

Kings de
jure and
de facto.

Bp Sander-
son's Opin-
ion about
the Oath
taken to
Cromwell.

The Law of
Sovereignty
amongst the
Jews.

cause he was put into that Station by him who represented the Sovereign Power in *Jersey* at that time; and shall any one offer to dispute the lawfulness of owning the Authority the King and Queen enjoy by consent and agreement of the State? Surely whatsoever Notions any may have concerning the Original of Sovereignty, we cannot rationally imagine any thing more advantageous in favour of it than this, That it was instituted by God for the Government and Preservation of the People. And as to the Persons invested with the Royal Dignity, I don't believe any wise Man can pretend, that there is an immediate Grant of the Sovereignty to any one Prince at present in the World; much less that God has marked out any Family to settle upon them the Rights of Sovereignty: let them shew this Grant, or a Transcript of it if they can, it would be great satisfaction to the House of Commons. The reason therefore why any Person is invested with this Dignity, is only the Choice that has been made of him by the Consent of the People. This Consent of the People, or of the most considerable amongst the People, has constituted the Forms of all lawful Governments, and has legitimated those Empires that were at first obtain'd by Conquest or Violence. And we may in particular add, that after this manner things have been carried in *England*, as we may see in the *Mirror of Justices*, cap. 1. Sect. 2.

No reason
to question
Submission
to K. W.
and Q. M.

Now this being once granted; forasmuch as the Peoples Consent cannot be suppos'd without the Condition of keeping the Fundamental Laws of the Government, which are of absolute necessity to the subsistence of the State, it is incontestable, that when a Prince has endeavour'd the overthrow of all the Laws, the Obligation of obeying him must needs cease and be void. This is a thing so self-evident, that a Papist who has lately publish'd the *Remonstrance and Protestation of all the good Protestants of this Kingdom*, declares, that if *James II.* were once convicted of suborning the Prince of *Wales*, of the League with *France*, of the Murder of the Earl of *Essex*, and of *Charles II.* we had done with him for ever. It is notorious, that without putting our selves to the trouble to lay open these particular Actions, whereof he pretends *James II.* ought to be convicted, there are but too many others known to all, which are sufficient to render him convict of having overturned the Laws of the Government, and the Constitution of it, and to acquit his Subjects of their Oath of Allegiance.

Nay I'll go further, that it is impossible to keep the Faith we have promis'd to an Arbitrary Prince, without involving our selves in an infinity of Sins and Crimes; for as oft as we render him any Act of Obedience, we make our selves partakers of his Irregularities, and we foment and encourage them, we become the Enemies of our Country, Traytors to the State and Community of which we are Members, and draw down the Curse of God upon us. I ardently desire that those who are uneasy under the Scruples I have here examin'd, would seriously consider of it: The Divisions they may occasion cannot but prove very tragical; their Scruples are only founded on Prejudices, and fomented by those who would destroy them; these their Prejudices are condemn'd by all Divines in general, whether Papists or Protestants, who without Interest have writ on this Subject. Here can be no dallying in the case, if they think themselves bound by their Oath to *James II.* to answer this Obligation, they must pay him Taxes, and all his Dues, and oppose themselves to the establish'd Government, they must exhort others to do the same; for no Government will harbour Neuters in her Bosom: Their suspended and doubtful State deserves no better Character than that of a Spirit of Discontent, which politickly smothers its Aversion till it have an opportunity of raising so powerful a Faction, that it may barefac'd own its Obedience.

No obligation
to keep
Faith to an
Arbitrary
Prince.

We may pity those who by their Writings have defended these kind of Maxims, so pernicious to Society, and the first Causes of these Scruples, because we are willing to believe that they have been trepann'd by the crafty Wiles of a Court, who made Tools of them unknown to themselves: But it would be a thing most unworthy of Divines, of Christians, and of honest and wise Men, obstinately to espouse such Maxims as are good for nothing but to increase Arbitrary Power in the World, especially at this time when God has deliver'd us from its Rage and Fury. The Efficacy of these Maxims is so apparent in *France*, that we may easily apprehend what they are capable of inspiring proud and haughty Spirits with. Our good God be for ever blessed, for that those Divines who have so far been imposed upon, as to defend those Maxims which hastned their own Ruin, and made that of the State inevitable, have now an opportunity to undeceive themselves, by a softer and cheaper way than those of Popish Butcheries and Arbitrary Power, which

with-

without question would have open'd their Eyes wide enough, and made them hate those Maxims only somewhat too late for the good of the Church and Commonwealth.

The CASE of ALLEGIANCE *in our present Circumstances consider'd. In a Letter from a Minister in the City, to a Minister in the Country.*

Reverend Sir,

YOU having thought fit to consult my Judgment about the lawfulness of transferring our Allegiance from the late to the present KING; I shall not mispend time in blaming the ill choice of so incompetent a *Casuis*t for so important a Case; but according to the Laws of that Friendship which has been for some time observ'd between us, I shall endeavour to approve my Readiness, if not my Ability in serving you.

Conscience to be regarded,

I must not dissent from you, in professing a very tender and awful regard of Conscience, whose Authority I acknowledg to be sacred and inviolable, and in the neglect of which I expect no Peace in my own Mind, nor any Confidence toward God; and I think it necessary to add, that we ought to take as much care to inform our Consciences, as to follow them; that we provide them all possible Helps and Advantages; that we place Truths in the fairest Light, and view them with a steady unprejudic'd Eye: and we who are Ministers are more especially concern'd to do so, who being appointed Guides, not only to our selves, but also to others, must beware of the double Guilt of misleading our Flocks, by going our selves astray before them.

The Author's Apology.

You may believe me, Sir, as far as I can know my self, that I have no Antimonarchical Principles, or secret disgust to the Person of the late King, to alienate my Mind from him: Neither am I conscious of any angry Resentments of former Sufferings, or of any Discontent with my present Station, or of any ambitious Design or Hope of a future Advancement, to bend my Inclinations to a Concurrence with the present Revolution. For I solemnly protest, that if the late King would have thought fit to continue his Government over us, tho with many tolerable Inconveniences to the Publick, and tho with any intolerable Prejudices to my private Interest, I would never have retracted my Reverence and Submission to his Authority, nor have desisted to intercede with Heaven for Blessings on his Person and Government. Whatever change therefore it made on my Mind, it did not, I assure you, proceed from any Design or Choice of my own, but was necessarily induc'd from a Change without, and from those new Circumstances into which the late King unexpectedly cast us.

Difficulty to determine the Question in debate.

It is indeed very difficult, as you complain, to determine the present Case with a satisfactory Clearness and Certitude, because it is complicated of a great variety of things, some of which are foreign to our Faculty, and which for the most part require a great niceness of thought to apprehend and distinguish them; because also we are yet scarce got out of the amazement into which so great a Revolution hath surpriz'd us, and must have time to recollect and compose our thoughts, e'er we can consider so exactly, or deliberate so steddily as such an Affair deserves; but chiefly because we have of late years imbib'd some false Maxims and Notions, which unhappily intangle our Consciences, and prejudice our Minds against that Truth, which it is now become our Interest to discover and acknowledg; and have had those Notions inculcated upon us with so much Force and Importunity, that thro a slavish Fear of those who have been a long time practising upon us, we have almost

lost

Let our Liberty of thinking freely, and judging impartially of these matters. Yet these difficulties are not insuperable to an honest inquisitive Mind; they may indeed prompt us to excuse candidly the Errors of others, and to seek more earnestly for Wisdom, to him that hath promis'd to give it to those that lack, without upbraiding; but should rather animate than discourage our Industry in the researches of a Truth wherein our Consciences are so much concern'd.

These things being premis'd, I will now set close to my Work; and upon a general view of the Design before me, I find it necessary for me to do these three things.

1. To discover and remove some false Principles about Government and Obedience, whence the Obscurities and Difficulties in the present Case do chiefly arise. *Method of handling it.*
2. To resolve the chief difficulties in the Case propounded.
3. To prove that Resolution to be consistent with all the Obligations that can affect a good Conscience.

I. It will be necessary in the first place to detect and discard those false Principles of Government and Obedience, which have been in this last Age too earnestly obtruded, and too easily entertain'd among us; and which are as a false Bias on our Minds, to mislead their Considerations, and betray them into Error.

And if we find such Principles do rather enslave than oblige our Consciences, and are as inconsistent with Truth, as they are with the present Revolution, we must take the honest Courage to break off those Bands, and assert our Liberty: Of this kind are chiefly these three.

1. That a Monarchical Form of Government, and the appropriation of it to a particular Person or Family, is *Jure Divino*, or by a *Divine Right*. How boldly this Principle hath been asserted by some Men, you and I cannot be ignorant; upon which so great a stress hath been laid, that to alter the Government in the State, hath been thought as lewd an Impiety, as to alter either of the Holy Sacraments in the Church; to divert the Succession as unlawful as to pervert the very Course of Nature; and to oppose a King, tho in the most illegal Extravagances or barbarous Outrages, to be no less than fighting against God. If indeed such a Divine Right did appear, it must be acknowledg'd indisputable and inviolable, whatever sad consequences attend it; but upon examination we shall find that God hath nowhere instituted such a Right, but some men have with too bold a fraud made Use of his Name to advance and support their unreasonable Pretensions. If by such a Divine Right no more were intended than God's Permission and Allowance, it would have no Opponents; for we know of no Law that doth forbid a Monarchical Form of Government, or exclude any particular Person or Family from the Administration of it: But then the pretence so interpreted, will not be sufficient to render an Alteration in the Government or Succession a Sin against God, as the Assertors of this Notion have sometimes pretended. They therefore who plead this Argument, must be thought to assert that God hath by some Law or Constitution appointed Monarchy to be the specifick Form of Civil Government; and that the Crown should be entail'd on such particular Persons succeeding in the same Family, whereby the one cannot be chang'd, or the other debar'd, without transgressing a Divine Institution. This being a matter of great importance, and of common continual concernment to Mankind, we may reasonably expect, that if God hath made any such Law, it is somewhere promulg'd to the World with sufficient Evidence and Certainty; but tho many have been for some years most solicitously seeking after it, yet they are not agreed among themselves in the Discovery, nor can direct us where we may certainly meet with it. I know but of two sorts of Laws which God hath given to Mankind, either Moral, impress'd on the humane Nature, or Positive, reveal'd in the Holy Scriptures; but the *Jus Divinum* in dispute is a Stranger to both. God hath indeed by both instituted Government, or Civil Authority, for the Welfare and Security of Men in their Civil Societies; he hath also commanded, that Superiors govern justly and mercifully, and that Inferiors honour them with Duty and Submission: But I nowhere find that God hath commanded all Nations, or ours in particular, to be under that Form of Government, which in contradistinction to other Forms is call'd Monarchy; or under some particular Person or Family in contradistinction to all others. The Law of Nature doth indeed erect a Monarchy in Families, over those who are naturally descended from him that is to govern; but there being not the same natural reason in our Civil Societies,

Monarchy not Jure Divino.

No Parallel betwixt Paternal and Civil Monarchy.

cieties, there is not the same Law of Nature to prescribe the same Government. And if some plead a Likeness or Analogy between them, it can serve only for a rhetorical Illustration, but not for any logical Proof, such as the present Case requires. From the Holy Scripture we learn, that God did once institute a Monarchy for the People of *Israel*, and appointed particularly that *David* should be their King, and also intail'd the Crown upon his Posterity; but as God had particular Reasons for that Institution, respecting the *Messiah*, so we have no Reason to think that God intended by that Institution to oblige any other Nation but the *Jews* only. In the New Testament we find Civil Government suppos'd, and the moral Duties to be discharg'd both by Superiours and Inferiours, describ'd and inforc'd beyond what they are in any other Institutions; but we no where find Christ and his Apostles prescribing the particular form of Civil Government, or preferring Monarchy, or condemning an Aristocratic or Democratic State; and much less determining the particular Persons or Families on whom the Regal Dignity shall descend. Some indeed have infer'd from St. Paul's Assertions, *Rom. 13. 1.* that the particular Forms of Government, and the particular Persons which administer it, are by a Divine Institution; but however they countenance this mistake from our *English* Translation, which says, *There is no Power but of God, the Powers that are, are ordain'd of God*; yet the Text is incapable of such a sense, if we read and render it exactly according to the Original.

All Authority from God explain'd. St. Paul's words are, *Οὐκ ἔστιν ἔξουσία ἐκ μὴ ἀπὸ Θεοῦ, αἱ δὲ ἔσονται ἔξουσιαι ὑπὸ τοῦ Θεοῦ τὰς ἀρχὰς καὶ ἐξουσίαι εἰσὶν*, which in an exact Translation would run thus; *There is no Authority, if not of God; and the Authorities which are (of God's Institution) are order'd under God.* The plain Doctrine of which Text can be only this, That no Man can have an Authority over other Men, who are his Fellow-Creatures, except it be deriv'd to him from God, who is the Lord of all; and that whatever Power is deriv'd to any Superiours over Inferiours, it must be subordinated to God, from whom it was deriv'd. And as the Apostle doth infer from the former Assertion, That every Soul should be subject to, and not resist this Authority, even for Conscience-sake, because deriv'd from God; so he infers from the latter, That the Superiour who useth this Authority, must administer it as the Minister of God, for the good of Men, in protecting Virtue and discouraging Vice, because his Authority is subordinated to God, the supreme and absolute Lord of all Mankind.

St. Paul's meaning explain'd. And that the Apostle doth speak of Authority according to its general Nature and Institution, and not the particular Persons by whom, or Forms in which it was then exercis'd, is evident from the excellent Properties and Ends of this Authority which he enumerates; which do belong indeed to that Authority which God hath instituted, but cannot certainly be ascrib'd to the Government of *Nero* the present, and the worst of Emperors. And to make this the more plain and unquestionable, it may be observ'd, that as St. Paul, speaking of the Authority in the general, calls it *ἡ τοῦ Θεοῦ διαταγή* the Ordinance of God; so St. Peter speaking of the Persons by whom this Authority is administer'd, calls it, *ἡ ἀνθρώπων κτίσις*, the Ordinance of Man, whether it be the King as supreme, or inferiour Magistrates commission'd by him.

I Pet. 2.
13, 14.

After all I am ready to acknowledg, that the Law of God doth secure Princes, yea and the meanest of their Subjects, in the quiet possession of those Rights which they have justly acquir'd; but the Rights themselves are not founded on a Divine but Human Constitution: for tho the Law of God doth prohibit us to defraud a private Person of any part of his just Possessions, yet we do not think that any Law of God did antecedently entitle him to such a Possession, or doth necessarily entail it on his Family; but that his Right is grounded on the Laws and Constitutions of the Country in which he lives. So, tho Kings have the Law of God to maintain and protect them in the use of that Authority to which they have a just Right; yet that Right is not to be measur'd by any Law of God, but the Constitutions of the Realm, and may be acquir'd or alienated without committing any Sin against God, as they who assert a *Jus Divinum* would pretend.

No absolute and unlimited Monarchy in England.

2. Another false Principle to be dismiss'd, is a wide mistake of the Nature of that Government under which we live, which asserts the *English* Monarchy to be absolute and unlimited, at least that in its Original and Essential Constitution it is so, and cannot be otherwise. We cannot but reflect on the ill Design or ill Conduct of some, who in their Discourses on this Subject have transcrib'd out of their Common Places all the great things which any Princes have asserted to themselves, or have been ascrib'd to them by ambitious Flatterers, or have been acquir'd

acquir'd by them in over-reaching Compacts, or by a violent Force; and have without any Restriction or Exception, apply'd them to the Monarch of our Island, as if there could be but one sort of Government in the World, or that ours did eminently include all the Prerogatives that can be conceiv'd in speculation, or can be found to be ascrib'd to any King or Emperor, in any Part or Age of the World.

Upon this Principle they have exalted the *English* Monarch into as absolute and arbitrary a Sovereign, as any Emperor of *Rome* or *Constantinople*; they make his Will the sole Spring of our Government, from which it is originally deriv'd, and into which it must be ultimately resolv'd: they allow to an *English* Parliament no more power than to give some inauthoritative Advice, which the King may use or neglect as he thinks fit. They think a Coronation-Oath, whatever it may be with respect to God, yet with respect to the People is only a customary Ceremony or insignificant Formality. They suppose all legal Limitations of the Government to be but the King's arbitrary and temporary Condescensions, which he may retract without doing any Injury to the People; and in a word, that all our Laws are entirely dependent on his Pleasure for their Being, Continuance and Influence; but his Will is in all Cases unaccountable and irresistible. Such Maxims as these quite alter the frame of our *English* Government, raise up our King into a Tyrant, and depress his Subjects into Slaves, and serve only to render the King odious, and his People miserable; and therefore as no wise Man can forbear wishing that they may not be true, so upon Enquiry we shall find that they have been advanc'd either by the fondness of some, who frame Schemes of Government in their own Imagination, or by the Ignorance of others, who are deceiv'd with the sound of the equivocal Name of King, or by the Craft of those who make a Trade of advancing the Prerogative, in order to their own Advancement. Indeed if the preceding Principle had prov'd true, That Monarchy is a Divine Institution, it would be necessary for us to grant, that no other Form of Government could be mix'd with it, or be restrain'd by any Limitations, because it cannot be lawful for Man to adulterate or infringe the Ordinance of God: but seeing the *Jus Divinum* doth not appear, we have reason to suppose that our *English* Government is built on the Topical Constitutions of this Country, and may differ from the Government of other Countries, as much as our Tempers, Interests and Circumstances do. For if the supreme Governor of the World hath not thought fit to prescribe one Form of Government to be every where observ'd, he hath permitted to every Nation a Liberty of framing to themselves such a Constitution as may be most useful and agreeable; and as it is inconceivable that all Nations should conspire in the same Platform of Governments, so it is most unreasonable to seek in *Judea*, *Italy* or *France*, for the Measures or Properties of the *English* Government, which was made, and is therefore to be found only at home, and should be describ'd rather from its own Laws and Constitutions, than any fine Notions we can conceive of what it might or should be. And if we contemplate the Government it self, we may easily discover what its essential Forms and Properties are; for surely a Government that hath been publicly transacted thro' so many Ages, and hath made so great a Figure in the World, cannot remain an imperceptible Secret, or an unintelligible Mystery: and I cannot forbear suspecting those, who disguise it with so many Uncertainties and Obscurities, that they design to mislead us into a mistake of that which they will not allow us to understand. A little skill in our *English* History will suffice to inform us, that the Saxons and *English*, from whom this Nation is chiefly descended, did first introduce the Form of our *English* Government, and that it was the same they had been us'd to in *Germany*; where, as *Tacitus* * observes, *Regibus nec infinita aut libera potestas*, Kings had not an absolute or unlimited Power. And from the ancient Records of those early times we are assur'd, that the Consent of the People in a Convention or Parliament, did always concur to the making of Laws; and also their Consent in a Jury of Peers was always admitted in the execution of them: Whence the People of *England* have been always acknowledg'd to be Freemen. And tho we read that the Saxons were subdu'd by the Danes, yet we find not that their Government was chang'd; but that after a short Interruption, the Government and Country return'd entirely into the hands of the Saxons. The Duke of *Normandy*, whom we call the Conqueror, was such only with respect to *Harold* who usurp'd the Crown,

Mischief attending the Notion of Absolute Monarchy in England.

* *Tacit. de morib. Germ. Sect. 3. & 5.*

The D. of
Normandy
a Conq. of
K. Harold,
and not of
the Nation.

but not with respect to the Kingdom, which he claim'd as Successor to King *Edward*, to whom he was related, by whom he was adopted, and from whom he had receiv'd a solemn Promise of the next Reversion: and accordingly we find, that tho he made some external Changes in the Government, yet he made no essential Alteration in the Form of it; and the same kind of Government hath been transmitted by succeeding Kings to the present Age, with some accidental Improvements, as our Ancestors grew wiser by Experience, or the Necessities and Interests of the Nation did require. Now, inasmuch as our *English* Government was at first transplanted out of another Country, and hath been ripen'd into a Perfection by several degrees thro a long tract of time, it would be very fanciful to suppose one solemn time when the Original Compact between the King and People was first made, or to ask after a Book in which it is in a certain Form recorded; that Compact being nothing else than a tacit Agreement between the King and Subjects, to observe such common Usages and Practices, as by an immemorial Prescription are become the Common Law of our Government. And to understand these, so far as our present Case requires, there is no necessity that we should read over all the Records in the *Tower*, or all the Volumes of our *English* History, there being several antient Forms and Customs among us, which fall under easy Observation, that are sufficient to inform us of the Nature of our *English* Government. For when at a Coronation we see a King presented to the People, and their Consent solemnly ask'd and given; what can we reasonably infer from thence, but that antiently Kings were advanc'd to their Thrones by the Consent and Agreement of the People? When we hear the King solemnly promise and swear to maintain to the People their Rights and Liberties, to conserve the Laws, and cause them to be observ'd; must we not conclude from thence, that there are Rights and Liberties reserv'd to the People, that the Will of the King is limited by the Law of the Realm, and that he is bound by his Oath to conserve the Laws, as we are by ours to observe them? When we are taught to call the King our Liege-Sovereign, and our selves his Liege-Subjects, do not those Terms import, that he is bound to protect us in all our Rights, as we are bound to obey him in all his Laws? When we read in the Preamble of every Statute, that it is enacted not only by the Authority of the King's most Excellent Majesty, but also by the Authority of the Lords Spiritual and Temporal, and of the Commons assembled in Parliament; is it not very evident from hence, that the Parliament hath a share in the Legislative Power, which is an eminent Branch of the supreme Authority in this Kingdom? From these, and other such easy Observations, any impartial unprejudic'd Person will certainly conclude, that our *English* Government, according to its Essential Constitution, is a mixture of three Forms of Government; for he observes a Monarchy in the King, an Aristocracy in the Peers, and a Democracy in the Commons; all which share in that part of the Sovereignty which consists in making Laws. And tho our Government be call'd a Monarchy, because that kind is predominant in the Constitution, according to the known Rule, That the Denomination is to be taken from the excelling Part, the King having not only a share in the Nomothetick Power, but also the whole Executive Power committed to him; yet we cannot but conclude from the foregoing Observations, that our Monarchy is not absolute and unlimited, that the Law is the stated Rule and Measure of our Government, and that the Law cannot be made, alter'd or annull'd, by the sole Pleasure of the King: but as it is the first determinate Rule by which the King is to govern, and the People to obey, so it is to be made or chang'd only by the Consent of both in a Parliament. I might confirm all this, by transcribing out of Books several Testimonies which occur in the Declarations of Parliaments, in the Writings of Judges, and others Learned in the Law: but as these would make a Letter too tedious, so they are unnecessary to an unprejudic'd Considerer, and by others would be suspected of partiality to the People of whom they are a part. I shall therefore only add the Testimony of King *Charles I.* who of all men had most reason to study, understand and assert the Rights of the *English* Monarchy. He freely declares in his Answer to the nineteen Propositions, pag. 96. 'That there being three kinds of Government among Men, *Absolute Monarchy, Aristocracy* and *Democracy*; and all these having their particular Conveniences and Inconveniences, the Experience and Wisdom of our Ancestors had so moulded this out of a mixture of these, as to give to this Kingdom (as far as human Prudence can provide) the Conveniences of all three, without the Inconveniences of any one. He also in the same Answer affirms, 'That in this Kingdom the Laws are jointly made by a King, by a House of Peers, and by a House of Commons. He likewise

K. Ch. I.
his Testi-
mony about
the Nature
of the Eng-
lish Go-
vernment.

wise affirms in his Declaration from *Newmarket*, 'That the Law is the measure of his Power. And in another Declaration to the Ministers and Freeholders of the County of *York*, he acknowledgeth, 'That his Prerogatives are built upon the Law of the Land.

From these and other such Passages which frequently occur in the Writings of the King, who so earnestly disputed for the Rights of the Crown, we may be abundantly convinc'd that the *English* Monarchy is not unmixt or unlimited, and cannot therefore enough admire the leud Presumption of others, who have dar'd to attempt a change in our *English* Government, who prefer the extremes of Tyranny and Slavery to the just temperament of our *English* Constitution, who have labour'd to tempt our Kings into an affectation of absolute and arbitrary Power, and have miserably overlaid the Consciences of their Fellow-Subjects, with a boundless unlimited dread of a boundless unlimited Power.

3. There are also great mistakes about the measures of our Obedience and Submission, which are necessary to be remov'd before our Consciences can make a free and impartial determination of the Case before us. We have been told it often, and with great earnestness, that we are bound in Conscience to yield an active Obedience to the King in all cases not countermanded by God, and to resist him in no case whatsoever. If indeed the two foregoing Errors had stood the proof, this would have follow'd by necessary consequence: for if a Monarch be *Jure Divino*, he must be absolute; and if he be so, there is no case, not excepted by God, in which we must not obey him, and none at all in which we may resist him. But then we may make this advantage from the connexion which these Errors have one to another, that if one of them be refuted, the rest must necessarily fall with it: and if according to the *English* Principles premis'd, our Government be founded on the Constitutions of this Country, and according to those Constitutions be mixt and limited, then there may be some Cases in which it may be lawful for us not to obey the King, and not unlawful to resist him.

Mistakes about the measures of Obedience.

For tho it may be true, that we are bound to obey actively whatever is commanded by the Legislative Power of the Kingdom, and is not repugnant to any Law of God, yet we cannot assert so much with respect to the King only, because he having not the whole Legislative Power, an Act of his private Will is destitute of that Authority which can derive any Obligation upon Conscience: Altho therefore a King may require things not inconsistent with the Law of God, yet if they are beyond that Authority which the Constitutions of *England* have assign'd to him, his Subjects are not bound in Conscience to obey those Commands; and tho in some cases they may comply by a voluntary Concession, yet they are oblig'd to condemn and withstand such Proceedings, if they increase so far as to threaten a fatal subversion of the Government. But how can we defend our selves against any exorbitant Acts of the King's private Will, if disarmed and fettered by the Doctrines of *Passive Obedience* and *Nonresistance*? What may not a King do, and a People suffer, if no Defence may be used? I do not here forget to consider what submission God hath required to that Supreme Authority which he hath instituted, or what Honour and Reverence we are to pay to those Governors who sustain and administer it; nor how impatient Men ordinarily are of the yoke of Government, and how apt to enlarge their Liberty into Licentiousness; nor how pernicious Disorder and Confusion must needs be to any Society: and therefore I use the utmost Caution I can to steer aright between the Rocks on the one hand, and the Sands on the other, that I may not make Shipwreck of a good Conscience. I therefore premise and sincerely acknowledge, as I have learn'd from *St. Paul*, that *Every Soul must be subject to the Supreme Authority which God hath instituted, and that if he resist, he is worthy of Condemnation*: And according to *St. Jude*, that we must not despise Dominions, or speak evil of Dignities; and that those untamable Spirits which are impatient of Government, are like wild Beasts made to be destroy'd. I have also learn'd from *St. Peter* to submit to every Ordinance of Man for the Lord's sake, whether to the King as Supreme, or to Governors sent by him, so as not to disobey or resist them in the use of that Authority which the Constitutions of the Kingdom have assigned to them. I have from the same Apostle learned farther to be subject with all Fear, not only to the Good and Gentle, but also to the Froward: So that if a King in the Administration of his Government should be too sparing in his Rewards, and oversevere in his Justice; if too hard to be pleas'd, and as hard to be propitiated, I must be contented; if he injure me in my private Interests, I must rather submit than oppose a private to a publick Good; or if the publick Affairs of the Kingdom sustain

The Legislative Power not in the King alone.

Measures of Obedience to Authority.

any detriment or mischief from his Male-administration, yet if it be such as will consist with the Being of the Government and Safety of the People, it should rather be born patiently, than redress'd by a violent Opposition. I acknowledg also that in all cases not certain and notorious, the Subject ought to presume the Right to be rather on his Prince's side than on his own; and never to think any Oppressions intolerable till they are evidently such, or to call for a violent Redress till they appear otherwise irremediable. I must acknowledg also, that I can see no Right the Subject hath from the Law of God or Man to use any other resistance against a King than what is defensive, or to proceed judicially against him, or to inflict any Punishment on his Person for any defaults of Government, because there can be no Authority in our Kingdom superior to that with which the King is invested.

*Defensive
Resistance
when ne-
cessary.*

Yet after all these Concessions, it must be confess'd that the Regal Power being in its Constitution limited, and in its Exercise liable to be abus'd, there may such cases happen wherein a defensive Resistance may be not only lawful, but a necessary Duty. And if we may not lie for God, much less may we do it in flattery to any Man; and if Subjects may not be defrauded of their Estates, no more should they be of their Liberties, to prevent their abuse of them. Wherefore to speak out plainly and honestly in a case wherein Conscience is so much concern'd, I must add, that we are not bound in Conscience to yield Passive Obedience to the King any further than that Regal Authority extends, which the Constitutions of this Kingdom have invested him with; and that those Constitutions do not empower him to treat his Subjects according to his own private Will, but according to the publick Rule of the Law; and by consequence, whatever Grievance is without or contrary to Law, the Subject is not bound in Conscience to submit to it, with respect to the King who had no Authority to impose it, tho he may be sometimes with respect to the publick Peace; and if Officers be appointed by the King to oppress his Subjects contrary to Law, their Commissions being illegal, must be without Authority: and therefore the Subject is not bound in Conscience to submit to them, but may resist their unjust assaults, if he cannot otherwise evade them, and do not disturb the publick Peace by the defence of his private Interests. And if we may suppose a Case so sad, as that a King thro ill Counsel or some strong Temptation, should be chang'd from a Father into the Enemy of his Country; and should with an immovable obstinacy ingage himself in such illegal designs, as plainly and inevitably tend to the subversion of the Government, and the Destruction of the People; his Subjects in such unhappy circumstances will be excusable before God, if they use so much defensive resistance as he hath made necessary for preserving the Government and themselves: For if in Nature a People is presuppos'd to Government, and Rulers are intended by God for the welfare of a People, and not a People for the pleasure of their Rulers, it will be most reasonable to infer, that when the End and the Means become inconsistent, the End should be preferr'd, and those Means prevented or rejected, which would destroy the End they should promote.

But these things are so easily anticipated by the common sense and reason of mankind, that there needs no long discourse about them; and they are indeed too irksom to an ingenuous mind to dwell long upon them: and tho our extraordinary Case at present hath made it necessary to say so much, yet I hope a like Case will never happen again, to give occasion to Subjects to consider so minutely the limits of the Regal Power, and of their own Submission.

*The Case
stated.*

II. Having now rescued our Consciences from the prejudices of the foregoing Errors, we may be capable of making an impartial judgment of the Case propounded, *Whether we can with a good Conscience transfer our Allegiance from the late to the present King?* Allegiance in its primary general sense signifies, being oblig'd or bound; in its political sense it imports that kind of relation which refers a Subject to his Prince, and by consequence it connotes the duties which result from that relation: And taking the word in its fullest latitude, there will arise these two difficulties to be distinctly resolved.

1. Whether our Consciences are discharg'd from Allegiance to the late King?
2. Whether we can with a good Conscience transfer our Allegiance to the present King, tho not the immediate Heir of the Crown?

First, In resolving the former enquiry it will be necessary to premise, that our Allegiance to *James the Second* was not to his Person absolutely, but respectively, as he sustain'd

sustain'd the Character of King ; and therefore as we ow'd no Allegiance to him before he was King, so neither can we owe him any now, if he cease to be so : and I think it too plain to need any Proof, that it is possible that a Person may cease to be King, tho he still survive ; and that a relation ceaseth when one of its Terms is lost. If therefore it appears, that *James* the Second doth cease to be our King, tho he be still alive, our Allegiance to him will be sufficiently discharg'd ; and that he doth cease to be our King, may, I suppose, be evinc'd from the following Considerations.

How we
are absolv-
ed from
our Alle-
giance to
K. J.

1. If *James* the Second did with an immoveable obstinacy ingage himself in such illegal and pernicious designs as were notoriously subversive of the Government, and destructive of the People, he did thereby cease *de jure* to be our King, and our Allegiance to him is by consequence discharg'd. The Title of King includes both an Office to be discharg'd, and an Estate to be enjoy'd, but the latter is an appendant to the former : when therefore he ceaseth to govern and protect his People according to the Laws of this Kingdom, his Right must so far cease to that Power, Dignity, or Revenue, which were assign'd to him for that end ; except we can imagine some things to have a moral power of subsisting, when the reason of them is gone. And as the Office of the King is directed by the publick Rule of the Law, so the Right which any Person can have to the Regal Estate, must be founded on the Constitutions of the Realm, and these Constitutions must either invest him with an Absolute Right irrespective to his Office, and then he would be an Absolute Monarch, which is before disprov'd ; or else it must be a conditional Right, respecting the Office he is to discharge, and then the Right in equity must cease, upon the non-performance of the Condition. Supposing also that a Person's Right to the Regal Estate be founded on the Civil Constitutions of our Government, if he will set himself to subvert those Constitutions, he cannot thereby but undermine and destroy his own Right which was superstructed on them. And if he obstinately refuse to discharge the Regal Office according to the proper fixt Rule of the Law, tho he still usurp the Title of King, yet he is become quite another thing, such as our *English* Constitutions assign no Authority to, and to which we are not supposed to owe any Allegiance, and which we cannot recognize without becoming Accessaries to the most illegal practices, and deriving on our selves the heinous guilt of contributing to the ruin of the Government and our selves.

K. J's
design to
subvert
the Go-
vernment.

And as such a determination of the Case is most consonant to Reason, so it is most agreeable to the antient Principles and Practices of *England*. By a Law made in King *Edward* the Confessor's time, it is declar'd, (a) *That if a King doth not perform his Office, he shall not retain so much as the name of a King*. We also read that (b) *Sigebert King of the West-Saxons, being incorrigibly Proud and Wicked, he was, in the beginning of the second Year of his Reign, by the Nobles and the People of the whole Kingdom assembled together, upon mature Deliberation, and by unanimous Consent of them all, driven out of his Kingdom*.

Thus also King *John* having broke his Coronation-Oath, and endeavour'd by many ways to enslave both the Church and the Realm, after many Applications, and a defensive War waged by the Barons against him, it was at last agreed, (c) *That if he did again return to his former wicked Courses, the Barons should be for ever releas'd from all Allegiance to him ; and when he afterwards relaps'd into the same Courses, they in a General Assembly, with the Approbation of all the Realm, adjudg'd him unworthy to be King*.

K. John
violated
his Corona-
tion Oath.

We find also that King *Edward* the Second for following evil Counsel, and refusing to hearken to good Counsel, for his Pride and Arrogance, for breaking his Coronation-Oath, for wasting his Kingdom, and being found incorrigible and past all hopes of Amendment, was by (d) *advice and assent of all the Prelates, Earls and Barons, and of the whole Community of the Kingdom, depos'd from the Government*. I shall

(a) *Quod nisi fecerit, nec nomen Regis in eo constabit.* Lamb. de priscis Anglorum Legibus, p. 142.

(b) *In principio secundi anni Regni sui cum incorrigibilis superbia & nequitia esset, congregati sunt Proceres & Populus totius Regni, & eum provida deliberatione a Regno unanimi consensu omnium expellebant.* Collect. p. 769, &c.

(c) *Inter cetera, de ejus expresso consensu, ita convenit, ut si idem Johannes ad flagitia prima rediret,*

ipsi Barones ab ejus fidelitate recederent, nunquam ad eum postmodum reversuri. Cum autem ille fecit novissima sua pejora prioribus, illi de communi Regni Consilio & approbatione ipsum Regno indignum judicarunt. Collect. 1868. &c. Chron. W. Thorn.

(d) *De Consilio & Assensu omnium Prelatorum & Baronum & totius Communitatis Regni amotus est a Regimine Regni.* Apolog. Adami de Orleton Collect. p. 2765.

add only one Instance more of King Richard the Second, to whom his Parliament sent Messengers to declare to him among other things, (a) *That they find in an antient Statute, and it hath been done in fact not long ago, That if the King through any evil Counsel or foolish Contumacy, or out of Scorn, or some petulant Wilfulness, or any other irregular way, shall alienate himself from his People, and shall refuse to be govern'd and guided by the Laws of the Realm, and the Statutes and laudable Ordinances thereof, together with the wholesom Advice of the Lords and Great Men of his Realm, but persisting headstrong in his own mad Counsels, shall petulantly prosecute his own private humour, that then it shall be lawful for them, with the common Assent and Consent of the People of the Realm, to depose that same King from his Regal Throne, and to set up some other of the Royal Family in his place.*

The present Case stated.

These Testimonies which I met with in a late Author, and which I am assur'd from an able hand to be faithfully recited and of an unsuspected Credit, I have abridg'd and transcrib'd, to confirm that Truth on which the Argument is built, that according to our *English* Constitutions a Person may forfeit his Regal Rights, and cease *de jure* to be King; and that according to the antient Statutes and irreprovable Usages of this Country, the Nobles and Commons of *England* may remove such a Person from the Government, when necessary to prevent a general ruin otherwise inevitable. Now that the late King had brought matters to so great an extremity as is in the Argument suppos'd, is evident from many Instances so recent and notorious, that it was lately acknowledg'd by all of us in the loudest Complaints. We saw him attempting to subvert our Parliaments, by corrupting their Elections with the meanest Arts, and using his Power to pervert or frustrate their Counsels. We heard those high strains in which he claim'd an absolute and arbitrary Power; our Laws were trampil'd on in illegal Dispensations, and the most partial Executions; some were disseiz'd of their Freehold without a Trial, and Levies of Money were made without and against Law; our Religion and Church, which are the best of all those Interests that are secur'd to us by a legal Establishment, were so boldly threatned and attacked, that we seem'd to enjoy them but precariously, and to be in danger of seeing them speedily ravish'd from us. And when we consider that the late King was instigated and conducted in these exorbitant Courses by the Jesuits and the *French* King, who have long since convinc'd the World, that they dare to perpetrate any mischief or wickedness that will advance their Glory and promote their Interests: When also we consider that he proceeded in these Courses with so obstinate a Resolution, that when his Peers endeavour'd to reclaim him by Advice, they only thereby lost his Favour and all their Preferments; and when some of his Bishops petition'd him in the humblest manner, they were answer'd only with Fury and Imprisonment: When lastly we consider how far he had advanc'd in this way, that we already began to despair and our Enemies to triumph, and if our glorious Deliverer had not timely interven'd, we might have been in a few months past all hopes of Recovery; we may surely upon these considerations be allowed to conclude, That *England* could not be in more danger, or any Princelie under juster Exceptions, or a People be more disengag'd from their Allegiance. There are some who say, That if the League with *France*, the Imposture of a young Prince, the Murder of the Earl of *Essex*, &c. were clearly prov'd, they should not be able to contain themselves from renouncing all Allegiance to him: But tho these may perchance be prov'd in due time, yet if they never are, there is certainly enough and too much besides to satisfy any reasonable Man.

K. J. irrevocable.

K. J. by deserting the Kingdom did cease to be King.

2. If *James* the Second deserted the Kingdom without any necessity but what he induc'd on himself; and if he made no provision for the Administration of the Government in his absence, but by taking away the publick Seals, and cancelling the Writs of Parliament, design'd to obstruct all regular Proceedings; and if also he hath put himself into the hands of the *French* King, the greatest Enemy of our Religion and Country, without whom he cannot return to us, and with whom he cannot return without apparent ruin to this Kingdom, he doth thereby cease *de facto*

(a) *Habent ex antiquo Statuto, & de facto non longe retroactis temporibus experientur, quod dolendum est, habito, Si Rex ex maligno consilio quocunque, vel inepta contumacia, aut contemptu, seu proterva voluntate singulari, aut quovismodo irregulari se alienaverit à populo suo, nec voluerit per jura Regni & Statuta ac laudabiles Ordinationes, cum salubri consilio Do-*

minorum & Procerum Regni, gubernari & regulari, sed captose in suis insanis consiliis propriam Voluntatem suam singularem proterve exercere, extunc licitum est iis, cum communi assensu & consensu Populi Regni, ipsum Regem de Regali solio abrogare, & propinquiorum aliquem de stirpe Regia loco ejus in Regni solio sublimare. H. Knighton Collect. 2681.

to be our King, and we become discharg'd from all further Allegiance to him. I suppose few would hesitate in granting such a Conclusion, if the late King had by a Writing under his Hand and Seal solemnly abdicated the Government: but I know not what mighty force there is in a Form of Words for renouncing the Government, that it may not be as effectually perform'd by a proper and notorious Fact; or that a King may not as well renounce his Crown by doing it, as by saying it; and it is the thing it self, and not the way of expressing it, which is the ground on which the relation between a King and his Subjects is dissolv'd; and therefore if a King doth actually desert his People, his Government and their Obedience must thereupon actually cease. You would perchance easily allow the Argument, if the King had withdrawn deliberately and of choice; but it is said that he was rather hurried out of his Kingdom by Force and Fear. It will be therefore necessary to relate to you the History of that Transaction, which according to the truest account that I can meet with, is this: When the King went hence the first time, the Prince and his Army were at a great distance, and a Treaty between them was pretended; but he left the City before his Commissioners could return, tho they had certified him by an Express, that the Prince's Proposals were (as he himself afterwards acknowledg'd) beyond what in his present Circumstances he could demand or expect. And it is certain, that the Treaty was but a delusive Pretence, and that his Departure was resolv'd on some days before; for he himself declar'd to a Person of Credit, that the Queen had obtain'd from him a solemn Oath upon the Sacrament on the Sunday, that if she went away for *France* on Monday, he would not fail to follow her on Tuesday; which he accordingly attempted, and we are very well assur'd, that tho his Subjects us'd some Force to hinder his Flight, yet they us'd none to compel him to it. When he left this City the second time, he receiv'd a Message from the Prince, which desir'd him to withdraw some few miles from *London*, lest the Army coming thither, and *Whitehall* being throng'd with Papists, some Disorders might thence arise, not consistent with the publick Peace or the King's Safety; but we are sure that it was altogether of his own choice that he went first to *Rocheſter*, and thence out of the Kingdom.

If you reply, That the late King being deserted by his Subjects, and expos'd naked to the Prince's Power, was brought under a necessity of flying: I must answer, That that Necessity was not absolute, but conditional: For the Prince (to whom he lately allow'd the Character of being always just to his Word) had assur'd him in his Declaration, that if he would suffer the Grievances of his People to be redress'd in a Free Parliament, his Army should peaceably depart. And not a few of his Nobles and others did earnestly beseech him to comply with those Terms, and solemnly assure him that in such a Compliance they would faithfully adhere to him. If therefore the late King would have return'd to the *English* Government, he need not have left the Kingdom: but if he chose rather to depose and banish himself, than acknowledg and correct the Errors of his Government, or let fall those glorious Projects of advancing Popery and an Arbitrary Power in *England*, we have no reason to think such a wilful Necessity which he imposed upon himself, a sufficient Excuse for deserting his Kingdom; but rather to conclude, that if he would sooner leave us, than leave off to oppress us, we are happily releas'd from our Allegiance and Oppression together. Yet if we should impute his Flight rather to the weakness of his Fear, than to the obstinacy of his Resolution; I do not see how the same Conclusion can be avoided. For if he leave off to administer the Government himself, and rather hinder than promote its Administration by others, the Course of the Government is thereby stopt, and either this Nation must disband into Confusion, or we are necessitated to seek out and imploy some other Expedient. If you think that he might in short time overcome his Fears, and return to his People and Government, even this Hope is fatally precluded by his making himself a Royal Prisoner to the *French* King, from whom he can expect only to be us'd and manag'd as will most contribute to the Designs and Interests of that haughty Monarch; insomuch that we cannot conceive his Return possible, without the Consent and Conduct of him whom he hath made his Patron, and without the dreadful attendance of a *French* Army, and the dismal Consequence of utter Ruin to our Church and Nation. And surely that Prince who can forsake his People, and abandon them out of his Care, and make it impossible to return, except as an Enemy to vanquish and destroy them, may very well be thought to cease *de facto* to be a King, and his Subjects to owe any Allegiance to him.

No necessity of his deserting but by his own actions.

The Throne
voted by
Lords and
Commons
to be va-
cant.

3. If the Lords Spiritual and Temporal, and the Commons of *England* assembled in the late Convention, have upon mature Deliberation resolv'd and declar'd, That *James* the Second hath abdicated the Government, and vacated the Throne; we may be satisfactorily confirm'd from their Authority and Judgment, that he ceaseth to be our King, and we to be his Subjects. That they have fully and expressly asserted so much, I need not prove; and their Testimony is so proper and authentick in the present Case, that we may with good reason suffer our selves to be concluded by it. For the matter of the Inquiry consists of several antient Laws and customary Usages of this Kingdom, of which the two Houses are the most competent Judges; and they representing the whole Nation, and being by our choice commission'd to consider and determine this case for us, we cannot with any Modesty or Equity reject their Determination. If also we consider, that in all cases of a like nature, the Nobles and People of *England*, by their Representatives, have usually and finally determin'd them; and that upon the late King's withdrawing, the chief Power of the Nation could reside no where rather than in two Houses, it seems, according to our *English* Constitution, to be the Duty of private men to submit to such a publick Judgment. And indeed if such a solemn Assembly of the Three Estates of the Kingdom, after a long and serious Consultation upon the Case, shall not be thought sufficient to determine it, I wonder who can or may do it. For as particular Persons are less capable of making so exact a Judgment, so if every one should undertake to decide it, we must be reduc'd thereby into a helpless state of utter Confusion.

When it is
lawful to
transfer
Allegiance.

Secondly, The other Difficulty in the present Case to be consider'd is, Whether we may lawfully transfer our Allegiance to the present King, he being not the next immediate Heir? I may here presuppose that our present King is acknowledg'd by the World to be so eminently indued with all Royal Virtues and Abilities, and to have oblig'd the Gratitude of this Nation with so glorious and happy a Deliverance; that every wise and good Man among us cannot but be ready to address an hearty Allegiance to him, if it can appear lawful for him to do so; and where the Heart is so well inclin'd, it will not be difficult to convince the Judgment, if we consider these few Particulars.

Succeſſion
of the next
Heir not
always
necessary
nor prac-
tis'd.

1. That according to our *English* Constitution it is not necessary that the next immediate Heir should succeed. For if we review in History the antient Usages and Practices of our Country, which are the Common Law of our Government, we shall find, that tho the Crown hath been usually appropriated to the Royal Family, and in a latitude is said to be Hereditary; yet it hath very frequently passed over the next Heir to some other Branch of the Family, which was thought more capable of promoting the publick Ends of the Government in its present Circumstances: And we find no publick Censure ever passed upon such a King, or his Authority and Government in the least disabled thereby. And to make this matter unquestionably evident to any Man who is not far gone in the Conceit, that the Inheritance or Suecession of the Crown is *Jure Divino*, I add that the Kings of *England* have been allow'd by the whole Legislative Power of this Nation to dispose of the Crown by their nomination, which as it may suppose that they would not give it out of the Royal Family, so it must suppose that it was not necessary it should descend to the immediate Heir; for he being determin'd by Nature, could receive no Advantage from such a Nomination. Thus particularly it was allow'd to *Henry* the Eighth, and he, according to the Statute in that behalf, settled the Crown on his Son *Edward*, and the Remainder on his Daughters *Mary* and *Elizabeth*, both which could not be Heirs: And we find it also enacted in the 13th of *Eliz.* that whoever should maintain in her time that She and her Parliament might not limit the Descent of the Crown, should incur the Guilt of High Treason, and after her Life, the Forfeiture of his Goods. From which authentick Testimonies we cannot conclude less, than that it is not necessary that the next immediate Heir should always succeed.

The pre-
tended P.
of W. has
no Right to
succeed.

2. Let us consider that our Allegiance being remov'd from the late King, it must be refer'd to some other Person, and we can think of none for whose sake we may justly deny it to the present King. The pretended Prince of *Wales* lying under such a general and vehement suspicion of being an Impostor, and being at present under the Conduct and Disposal of the King of *France*, we see in him more reasons to dissuade than invite our Allegiance. Our present Queen, who is the next immediate Heir, is not pretermitted; and tho she hath a Consort in the Royal Dignity, yet he is such as was by Marriage become one with her, and who was admitted to the Partnership

nership, not without her Advice and Consent. And the King himself being a Branch of the Royal Family, not far remov'd in the Succession, and who by the late glorious Enterprize hath retriev'd the Right of both the Royal Sisters, and secur'd the Government it self from Subversion, it cannot but seem very indecent and unjust to overlook him in our Allegiance. If, lastly, we consider that the Protestant Interest in *Christendom*, and the Civil Interests of our own Nation, and of some of our best Neighbours, are at present in most imminent and extraordinary Danger, which in human Probability is not to be avoided but by the Prowess and Conduct of this illustrious Prince, whom God hath by a special Providence rais'd up among us; we cannot but conclude, that the Series of Providence, and Necessity of Affairs, have determin'd our Allegiance to his Majesty; and that they seem to be unreasonably nice, who can sacrifice such great Interests to an empty Formality.

3. The great Council of the Nation having actually invested our King with the Royal Dignity, he hath thereby a Right to our Allegiance; and according to the Laws of this Realm, we become punishable in refusing it, and are indemnified in performing it, altho his antecedent Title to the Crown may not be such as to exclude all exception. So great an Article of State as this can be fit to be decided only by the Wisdom of the Nation in the most solemn Assembly; and when so decided, ought to be submitted to by all private Persons, or all Settlement must be an impracticable thing: and if our Law should not be executed according to such an authentick Determination, the Government seems to be at a stop, beyond all hopes of reviving into Motion. I wish that they who pretend or perplex their Consciences about such Affairs, would consider seriously whether they are proper or capable Judges of such matters, and whether their Consciences may not be better conducted by the Resolution of such as are; whether they behave themselves as become private Persons, who oppose their Sentiments to the publick Judgment, or whether any Government can subsist if such a Presumption be not restrain'd. For my own part I am verily persuaded, that in all Civil Cases, decided by their proper Judges, my Conscience ought to acquiesce; and if I may be thereby misled into any Error, it will be without Guilt before God. And I am also inform'd that by a Statute made 11 *Hen. 7.* we are legally indemnified in paying our Allegiance to the King in being, if we continue faithful therein, however infirm his Title may afterwards appear; and therefore I cannot see what Danger can afright us from our Allegiance, or with what Safety we can refuse it.

*K. W. and
Q. M. actually invest-
ed with
Regal
Power and
Dignity.*

Thirdly, I have now given you my Resolution of the chief Difficulties in the Case propounded, and the Reasons on which it is built; and I can think of nothing more requisite to your Satisfaction, except to shew how this Resolution doth consist with all the Obligations which may affect a good Conscience in the present Case: which are, I suppose, chiefly these three, *viz.* the Prescriptions of that Holy Religion we profess; the Solemn Oaths we have taken, or the Declaration we have subscribed; and the avowed Principles and Doctrines of this Church in whose Communion we live.

1. As to the first, the Rule of our Religion being the Holy Scriptures, nothing can be inconsistent with one, which is not repugnant to the other; and according to the best of my Understanding, the Principles I have proceeded upon, do not disagree with any sacred Text, rightly interpreted. The first King of *Israel* we meet with in the Old Testament is *Saul*, who was advanc'd to the Throne as well by God's Institution as the Peoples Election, and who was according to the Peoples desire, an absolute Monarch, like the other Kings in those Eastern Countries: But this, thanks be to God, is not our Case, who live under a mixt Government, and a Monarchy limited by the fundamental Constitutions of this Realm. And yet I cannot but observe how *David* (who is usually prescribed as an eminent Pattern of Loyalty) thought it lawful to raise a band of Soldiers for a defensive Resistance against the unjust Persecutions of *Saul*, tho an absolute Prince; and surely we may conclude a *minor ad majus*, that such a defensive Resistance against a limited Monarch cannot be less lawful, when apparently necessary to preserve a whole People from imminent Ruin. I remember our Lord's determination, that his Kingdom is not of this World: and as I think we rightly infer from thence, that there is no secular Force belonging to his Kingdom for enlarging its Borders, or securing its Interests; so I can see nothing in these words to hinder, but that when any of the Kingdoms of this World is become the Kingdom of Christ, by incorporating his Religion among its Civil Constitutions, then we may use any Expedients for the defence of our Religion which we might use in defending any other Privileges of our Civil Establishment. Our Lord hath taught us, *to render unto Cæsar the things that are Cæsar's*; and his

*Allegiance
to the K.
and Q. not
repugnant
to Religion.*

Apostle, that we must render to all Men their Dues, Tribute to whom Tribute is due; Custom to whom Custom, Fear to whom Fear, and Honour to whom Honour: but they have left us to the Constitutions of our Country to determine what the things of *Cæsar* are, what Custom and Tribute is due, and when to be paid. I have already had occasion to consider the Doctrine of *St. Paul* and *St. Peter* concerning our duty of Submission to the Supreme Authority, and to those who administer it: And upon the general review of the whole, he seems to me to do the part of a good Christian, as well as of a good *Englishman*, who hath on his Mind an awful regard for the Supreme Authority which is of divine Institution, who will not refuse an active Obedience to the Laws of our Legislators, if consistent with the Laws of God; who can readily submit to the King, and to those that are commission'd by him, in the Execution of those Laws; who pays the highest Civil Honour to the King as the Supreme Magistrate of the Kingdom; who makes the most candid and honourable Constructions he can of all his Princes Actions; who can quietly submit to any Acts of Government, tho they seem very unjust and grievous to his private Interests; and who never thinks a defensive Resistance lawful but when apparently necessary to save a Kingdom from utter Ruin. He that can do all this, is a good Proficient in his Religion, for he will find it not very easy to Flesh and Blood to go so far. But they who are not content with any Notion of Religion which will not expose to ruin the Kingdom that embraceth it, do but traduce our Holy Religion, and expose it to the Contempt and Hatred of the World.

Allegiance now required, consistent with former Oaths and Declarations.

2. Let us next consider how the Resolution I have given, will consist with the Oaths we have taken, and the Declaration we have subscribed. You will here give me leave to premise, that the Forms we have sworn or subscrib'd are not to be taken carelessly according to the mere sound of words, but are to be understood according to the Sense which they plainly express, and which appears to be intended by our Superiors in imposing them. And if we consider our Oaths and Declaration according to this Rule, we shall discover that they have brought upon us no new degree of Allegiance or Subjection, which was not always due according to the Antient Fundamental Constitutions of this Kingdom; that we have hereby lost none of our *English* Rights and Liberties; nor the King enlarg'd his Prerogative beyond what it always was and ought to be: And therefore if according to the antient Constitutions of this Kingdom, the Government is mixt, and the Monarchy limited, so it continues. If the Freemen of *England* were before these Oaths bound to no Active or Passive Obedience beyond what the Law of the Land prescribes, they are bound to no more since; and if it was formerly lawful for the People of *England* in an extreme necessity, to remove a King whose Government was become inconsistent with the Publick Weal, and to set up another by whom the Publick Interest may be secur'd, it is as lawful still notwithstanding these Oaths we have taken, or the Declaration we have subscrib'd. And to evince this more satisfactorily, let us descend to Particulars.

The Oath of Supremacy consider'd.

(1.) The Oath of Supremacy prescrib'd 1 *Eliz.* doth plainly appear from the Preamble and Body of the Act, and from all the Parts of the Oath it self, to be intended only for asserting to the Queen a Supremacy over Ecclesiastical Persons, and in Ecclesiastical Causes, in opposition to the pretensions of the Pope and Court of *Rome*. When therefore it speaks of bearing Faith and true Allegiance to the Queen, and her Heirs and lawful Successors, it is in opposition to all Foreign Jurisdictions, Powers, Superiorities and Authorities; and when it speaks of our assisting and defending her Jurisdictions, Preheminences and Authorities, it is only of such as have been granted or belonging, or united and annexed to the Imperial Crown of this Realm: and that no new Power was hereby given to the Queen is evident, for when she was inform'd that this was by some pretended, she caus'd a Paper to be printed, call'd *An Admonition to simple Men deceiv'd by the Malicious*; in which she declares, "That she would have all her loving Subjects understand, that nothing
" was, is, or shall be meant, or intended by the same Oath, to have any other
" Duty, Allegiance or Bond requir'd by the same Oath, than was acknowledg'd to
" be due to *Hen. 8.* and *Ed. 6.* — and that her Majesty neither doth nor ever will
" challenge any other Authority than what was challeng'd and lately us'd by the
" said Noble King of famous Memory, which is and was of antient Times due to
" the Imperial Crown of this Realm; that is, under God to have the Sovereignty
" and Rule over all manner of Persons born within these Realms, Dominions and
" Countries, of what Estate either Ecclesiastical or Temporal soever they be; so
" as no other Foreign Power shall or ought to have any Superiority over them.
And to render this Exposition of the Queen more Authentick, we find it confirm'd
by

by an Act of Parliament, 5 Eliz. wherein is this *Proviso*; " Provided also, that the Oath express'd in the said Act, made in the said First Year, shall be taken and expounded in such Form, as is set forth in an Admonition annexed to the Queen's Majesty's Injunctions, publish'd in the First Year of her Majesty's Reign; That is to say, to confess and acknowledg in her Majesty, her Heirs and Successors, none other Authority than that was challeng'd and lately us'd by the Noble King Hen. 8. and Edw. 6. as in the said Admonition more plainly may appear. I think we may be abundantly satisfi'd from so express a Testimony both of the Queen and Parliament, that the Oath of Supremacy hath asserted no new Power to the Crown, nor deriv'd any new Allegiance on the Subject, but hath only ingaged him to pay that Fealty, which an *Englishman* did always owe to his Prince; and if that be all, it doth no way contradict the Positions above asserted.

(2.) The Oath of Allegiance appointed by an Act 3 Jacobi 1. doth manifestly appear in the Body of the Act, and of the Oath it self, to be intended, not for making any new kind or degree of Allegiance, but only for asserting the old Allegiance of an *Englishman* against the novel Doctrines and Practices of the Pope or Court of Rome, which pretended to a Power of excommunicating and deposing Kings, and of releasing Subjects from their Allegiance, and of bestowing this Kingdom on some other Prince at the Pope's pleasure. And that this Oath was intended only to assert our Allegiance in opposition to such Popish Pretences, is evident from hence, that the Oath was at first appointed, and for some years was requir'd only of known or suspected Papists; and an Act of Parliament following 7 Jac. I. declares concerning this Oath, that it is *limited and prescrib'd, tending only to the Declaration of such Duty, as every true and well-affected Subject, not only by bond of Allegiance, but also by the Commandment of Almighty God, ought to bear to the King, his Heirs and Successors.* We find also that King James doth professedly assert and defend no more in his Apology for this Oath, and in the Act of Parliament just before cited that Apology is approv'd and commended: and it being in that very Act requir'd that this Oath should be administer'd not only to Papists, but also to all other his Majesty's Subjects, we cannot conceive that our Legislators understood or intended it in any other than that limited and prescrib'd sense they had before acknowledg'd. From hence therefore we may infer, that this Oath doth secure the King against all Popish Pretensions, but not against the *English* Constitutions; and that the Allegiance we have sworn is no more than was antecedently necessary from those Constitutions, and by consequence that if according to those Constitutions a King may be remov'd from the Government, and his People be releas'd from their Allegiance, so they may be still, notwithstanding any thing express'd or intended in the Form of this Oath. But now if some among us (which I fear is the case of many) do mistake the matter of this Oath, and think they have sworn to another kind or higher degree of Allegiance than our Legislators intended, they cannot but thereby intral their Consciences with great perplexities; and can no other way find Ease, than by stating the Obligation of their Oath, according to the intention of those Superiors who impos'd it: and this may relieve them, for I suppose that tho a man may thro mistake imagine his Obligation to be greater than it is, yet that a promissory Oath doth really oblige him no further than the Party by whom the Form of his Oath was prescrib'd, and he to whom it was made, may be reasonably suppos'd to intend and require. Thus for instance, if a Man thinks he hath sworn Allegiance to the Person of him that is King, so as to be bound to him, whether he administer the *English* Government or set up another quite contrary to it; or that it obligeth him to obey the Acts of a King's private Will, tho without and contrary to Law; or that his Allegiance is not terminable but by death, altho the Person to whom he swore may long before cease *de jure* or *de facto* to be King; and to mention only one Case more, which I observe to be somewhat common, if any thinks he hath sworn such an Allegiance to the King's Heirs and lawful Successors, as oblig'd him in Conscience to find out who is the next immediate Heir, to assist him in acquiring the Crown, and to pay Subjection to him, and to no other; altho the Great Council or the whole Legislative Power of the Nation should see reason to determine otherwise. In these and other such Cases, it is plain that our Consciences are intangled, not with the real Obligations which are upon them, but with our Mistakes about them; that we conceit an Allegiance which our Ancestors never knew, and our *English* Constitutions do not require or allow.

(3.) The Declaration we have subscrib'd according to the Act in 14 C. II. is in these Words, *That it is not lawful upon any pretence whatsoever to take Arms against the King; and that I do abhor that traitorous Position, of taking Arms by his Authority a-*

Oath of
Allegiance
farther
consider'd.

Subscribing
of the De-
claration
consider'd
and ex-
gainst plain'd.

gainst his Person, or against those that are commission'd by him. Which Declaration may be consider'd in the present Case, either as it expresseth our own Judgment, or as it expresseth the Judgment of our Legislators, who requir'd it. As it is our Declaration, it can only import, that when we subscrib'd it, our Judgment was really such as we then thought this Form of words did properly express; but we did not hereby declare that we should never change that Judgment, if convinc'd by sufficient Arguments, and therefore cannot be bound in Conscience never to think or act contrary to that Declaration. But an Argument from this Declaration is of more force, as it pleads the Judgment and Determination of our Legislators, which will therefore deserve to be more attentively consider'd. I acknowledg that this Form was intended in direct opposition to the rebellious Principles and Practices of the times immediately preceding, and must conclude that according to the Judgment of this Parliament, King Charles I. did never *de jure* fall from his Regal Right, and that consequently the War his Subjects wag'd against him was a Rebellion, and the Positions on which they proceeded were traitorous; and that it is not lawful upon pretence of his Authority, or any other pretence whatsoever, to take Arms against his Person, who continues to be *de jure* King. In all which the Parliament declares no defensive Resistance to be unlawful, which was not always so; nor condemn any Positions which are not in themselves antecedently traitorous: and whoever thinks that they intended more, must suppose that that Parliament alter'd the Constitutions of our *English* Government, and did by apparent consequence, expose the Nation to utter Destruction. And if any of us in subscribing the Declaration had any other apprehensions of it, we may, and I think we should renounce and condemn them.

Authority
of the
Church alone
no sufficient
ground of
Faith or
Conscience.

Hom. of
Obed. pag.
75.

Sir Simon
D'Ewe's
Journal,
p. 207.

3. Let us in the last place consider how this Resolution will agree with the receiv'd Principles and Doctrines of the Church of *England*. We need not, I know, profess so high a regard for our Church, as to think any Doctrine upon her sole Authority, to be a sufficient Rule of our Faith or Conscience; and yet it cannot misbecome us to pay so great a deference to her Judgment, as never to depart from it without great regret. But upon second thoughts I find we shall be under no necessity of doing so; for tho there have been for some time a Party among us who have appropriated to themselves the Church of *England* exclusive of their Brethren, yet if we extend her Arms wide enough to embrace all her genuin Children since the Reformation, we shall find enough on our side to justify our Doctrines to be consistent with her Principles. Her Homilies no where, that I know of, assert the Errors I have here condemned, or condemn any of the Positions I have here asserted. The Homilies of Obedience teach us to *submit to lawful Authority, and to know our bounden duties to common Authority*; but they teach us no Loyalty, beside or contrary to Law. The Homilies against Rebellion are particularly design'd against the Papists, whose Rebellion was the occasion upon which they were written: and tho they teach us not to resist our Prince if his Government be legal, however contrary to our Religion or any other Interests, yet they nowhere forbid a defensive resistance against illegal oppressions which threaten an inevitable ruin to our Country; for they describe the Rebellion they condemn to be no other than resisting or withstanding common Authority. And that the principles of Loyalty which obtain'd in the Church at that time were no other than I have been now asserting, we may easily satisfy our selves from that form of Prayer they are charged with by the Parliament, in Queen Mary's Reign, *that God would turn her Heart from Idolatry to the true Faith, or else shorten her days, and take her quickly out of the way*: Also from the Reasons which the Bishops presented to Queen Elizabeth to prove that she ought to take away the Life of Mary Queen of Scots, because an Enemy to their Religion and Country, tho the next Heirefs of the Crown; as Constantine did of Licinius his Fellow Emperour, because he was an Enemy of the Empire, and of the Christian Religion. And to such as might object against their Reasons and Advice, they thus reply: *If our danger be joyn'd with the danger of our Gracious Sovereign and natural Country, we see not how we can be accounted godly Bishops or faithful Subjects, if in common peril we should not cry out and give warning: Or on the other hand how they can be thought to have true hearts toward God and toward their Prince and Country, that will mislike our so doing, and seek thereby to discredit us*. We may also know their Principles in the present case from the Subsidies which the Clergy gave to the Queen in several Convocations in the fifth, thirty fifth, and forty third years of her Reign, for her maintaining and assisting the *Scotch, French, and Dutch* in their defence of their Liberties and Religion against the unjust Oppressions of their Princes,

ces, as may be collected out of the Preambles of those Subsidy Acts. And if it were not too tedious, this might be fully attested out of the Writings of such Bishops as were most eminent in those times.

Bishop Jewel speaking of Luther, Melancthon, &c. hath these words, *They do not* Def. of A-
teach the People to rebel against their Prince, but only to defend themselves by all lawful pol. p. 16.
means against Oppression; as did David against King Saul, and so do the Nobles in France
at this day. They seek not to kill, but to save their own Lives, as they have openly pro-
tested by publick writing to the world. Bishop Bilson in his Book of the true Difference be-
tween Christian Subjection and Unchristian Rebellion, dedicated to Queen Elizabeth, thus
gives his Judgment concerning that defensive Resistance which the Hugonots us'd a- P. 520. E-
gainst the unjust Oppressions of their King. I will not, saith he, rashly pronounce all dit: 1585:
that resist to be Rebels: Cases may fall out in Christian Kingdoms, where the People may
plead their Right against the Prince, and not be charg'd with Rebellion. As for example,
if a Prince should go about to subject his Kingdom to a foreign Realm, or change the Form
of the Commonwealth from Empire to Tyranny, or neglect the Laws established by common
Consent of Prince and People, to execute his own Pleasure: In these and other cases which
might be nam'd, if the Nobles and Commons join together to defend their antient and ac-
customed Liberty, Regiment and Laws, they may not well be counted Rebels. In the next
 Reign we have the Judgment of Abbot Bishop of Salisbury, that (a) the Case of the
 Primitive Christians and of Us differs in this, that they had no legal Right for their Reli-
 gion, but were subject to the mere Pleasure of the Government. And while it was so,
 Christians did suffer themselves to be kill'd, and kill'd none in their own defence; but when
 under Constantine the Emperor they had the Laws on their side [Non tam cædebantur
 quam cædebant] they did not so much yield up themselves to be kill'd, as allow themselves
 to kill others in their just Defence. Such were the Principles of the Church of Eng-
 land in the Reign of Queen Elizabeth and King James: but indeed in the next Reign, Passive O-
 bedience
 Doctrin
 brought into
 the Church
 in K. Ch. I's
 Reign.
 when Popish and French Councils found admission at our Court, then arose together
 the new Principles of Super-conformity in the Church and of Super-loyalty in the
 State; which like a preternatural ferment, have ever since disturb'd the Peace of
 both, and must be again cast out, if we ever recover a true English Temper, or a
 peaceful Settlement. If then we frame our Character of the Church of England
 from the first and purest half of her Age, before she was secretly practis'd upon
 by the Arts of her subtle Adversary, we shall easily discover, that her Principles
 of Conformity and Loyalty are far more moderate and intelligible than those which
 since that time have been most industriously and impetuously recommended under
 her venerable Name. And I wish that every one who professeth an honorable and
 kind regard for our Church, would no longer ascribe to her such Principles and
 Doctrines, which she for many years was ignorant of; wherewith the Church hath
 given great advantage to her Enemies, and receiv'd nothing but Scorn and Con-
 tempts, and by which she may oblige the present Government to treat her with less
 kindness, than she might otherwise expect. But I forget that I am writing a Letter,
 and how much pardon I already need for running it into so great a length; but I
 thought it better to give you so long a trouble in reading, than to leave any trouble
 on your mind unremov'd: I beseech you to excuse candidly the mistakes I may have
 committed, and to accept the Services of,

London, March
 168⁸.

Reverend Sir,

Your Affectionate Brother and Faithful Friend, &c.

(a) In hoc causa eorum a veteris Ecclesie ra-
 tione distinguenda est, &c. Dem. Anti. c. 17. p.
 91, &c.

Some

Some CONSIDERATIONS touching Succession and Allegiance.

In what
sense the
King never
dies.

Demise.

I. IT is a known Maxim, That *the King cannot die*: and 'tis undoubtedly true with relation to his Politick Capacity; for the King is by Law a Body Corporate, having a Perpetuity by Succession.

Now that which makes a Degree for Succession to the Crown, is in Law called a *Demise* (*Demise du Roy*). And because ordinarily the Succession of a King commences upon the Death of his Predecessor, this word has been applied to signify the King's Death: But we know the word does not in it self signify Death, or any thing like it, but according to the just sense imports a forsaking or laying down of the Regal Authority. So that the true Notion of a *Demise* is, that 'tis a Separation of the Regal Authority from the Person of the King. And thus the word is used in the Law, when in pleading the Succession of a Mayor in a Corporation, they say, such a one *ab Officio Majoris prædicto se dimisit & cessit; super quo* such a one (the Person succeeding) *debito modo electus, præfectus, & juratus fuit*, &c. And as a King may demise from his Government by other ways besides Death, as by Resignation, or the like: So this word seems to be used by the Law as a general Term, to comprehend all kinds of Cesser from the Government, whether by Death or otherwise.

Compleat
Idea of a
King.

The Law considers the King as the Head of the Polity, and the *Primum Mobile* of Justice and Order; and has annexed to his Royal Dignity certain Powers and Functions, which cannot be separated from it, such as Protection, Government, and Administration of the Law. These compleat the Idea of a King; and without them his Royal Dignity cannot subsist. So that the Separation of these Powers or Functions from the Person of the King, is as really and effectually a determination of his Government, or a *Demise*, as a natural Death: the Kingdom being in both Cases equally left defenceless, and without a Governor. Indeed a Cesser by Death is more absolute and final than a Cesser by any other way; because a King, whilst living, is still capable of a Reassumption of the Crown, which a dead one is not: but it is visible there is an exact congruity between the Deposition of the Regal Authority both in the one and the other. Thus if a King resigns his Government by Instrument of Resignation, albeit he remains capable during his Life to reinjoy the Throne; yet, I suppose, such Resignation will be acknowledged equivalent to a natural Death, for it is in it self a *Demise*, or laying down of his Government, and makes way for the next Successor as much as a natural Death.

And therefore we may conclude, that the Law which considers things as they are in their own Nature, and not barely according to their Names or general Appellations, will adjudg a Deposition of the Government to be what is in its own nature a *Demise*.

Regal De-
scend consi-
der'd as to
England.

Moreover, if we consider the *English* Constitution in several Instances relating to its Government, we may be let in to discover the true Nature of the Regal Dignity in respect to its Descent. And the use that I shall make of these Instances, is only to shew, "That the Admission of his present Majesty King *William* to the "Crown of *England* (who is Himself nearly allied to the Crown) in conjunction "with her Majesty Queen *Mary* his Royal Consort (who is the next Heir) is very "justifiable by the Law: the hereditary Course of Descent being in their two Per- "sons at once preserv'd entire, in a just Combinement with such a Power of "Election as is consonant to the Law, and consistent with the ordinary Course of "Heritage.

Let us then take a short view of the *English* Policy; first in inferior Instances, and from them ascend to the Superior; taking it for granted, that a Constitution so well digested as ours is all of a piece.

Nature of
Corporati-
ons.

And here we may observe, that in all antient Corporations (which bear as near a Resemblance as can be to the Body Politick of the whole Kingdom) the Mayor or chief Officer is admitted by Election of the Members of the Corporation, and

And acts in Cases of Importance, by the Advice and Concurrence of a select number of Persons, who represent the whole Corporation. And tho this Matter is for the most part managed by Election, yet in some Corporations there is wont to be observed an Order of Succession to Office depending on Seniority, which gives some a Right to succeed before others.

Thus also in the City of *London*, which is as it were a Compendium of the whole Kingdom, there is a Mayor, Court of Aldermen, and Common-Council, representing in the Commonwealth, King, Lords and Commons. The Government of the City is vested in all these Persons: The Mayor receives his Authority by Election, and yet acts with as much Power and Grandeur, as if he came in by Commission from the King, or other Title; and tho he subsists upon Election of the City, the Laws of the Land, and Customs of the Corporation; yet is he not for that any thing the more controulable, or liable to be depos'd at the pleasure of the Citizens, upon account of having receiv'd his Authority by their means, but being once set up, is answerable for Misadministration only according to the Laws of the Land.

The Polity of the City of London.

The like sort of Government, or somewhat bearing a similitude thereto, there is in most other Corporations, as in Cities, Boroughs, Cathedral and Collegiate Churches, and Fraternities; and in the Inns of Court and Chancery: upon all which 'tis unnecessary to make particular Reflections.

Of other Corporations.

So that 'tis manifest, Government by Election is futable to the Genius of our Constitution, and a considerable Ingredient in it: There appearing to be evident Prints and Characters of a mixt Government throughout the whole Body of the Realm, distinguish'd into small Bodies or Societies; and this Government receiving its Strength and Legality from popular Consent and Election.

And as it must be supposed, that the Superiour Government and the Inferiour are in some degree conform and homogeneous the one to the other; so we may discover in the former some footsteps of an Election join'd with an Inheritance.

It's true, the Descent of the Crown of *England* has been acknowledg'd of a long time to be Hereditary; and the hereditary course has been for the most part observ'd, tho not without several Interruptions. Nevertheless, as it's certain that the Government of this Realm is not wholly Monarchical, Aristocratical or Democratical, but mix'd of all three: so it's very natural to conclude thence, that it has also a mixture of the Properties incident to those several kinds of Regimen; and is neither totally and exclusively successive, as in Absolute Monarchies; nor totally Elective, as in popular States; but has something of a mixture of both those Properties. And as the Government of this Realm has more in it of Monarchy than of any other Form; so it does chiefly follow the nature of Monarchy in point of Succession, being in general Hereditary, tho not immutably so.

Crown of England how Hereditary.

For tho the King comes to his Crown by ordinary way of Inheritance, yet his Authority is wont to be confirm'd by Assent of the People.

As at the Coronation of the King, the Archbishop who crowns him, does according to antient Custom, before he actually performs that Solemnity, go to the four Quarters of the Rails (East, West, North, and South) that encompass the place of Coronation, and asks the People, Whether they will acknowledg the King then to be crowned for their King, and be subject to Him (or to that effect) setting forth at the same time his Title by Succession from his Royal Progenitors; the Earl Marshal going before the Archbishop to each of the four Quarters; and the King turning round four times, and shewing himself to the People upon every Interrogation: And thereupon the People answer, *Yea, Yea, God save the King*; which is plainly to demand, and receive from the People a Consent to his Investiture with the Royal Dignity.

Solemnity of the King's Coronation.

So also the Assistance that all the Nobility, both Spiritual and Temporal, are to give at the Coronation by their Presence and Attendance, as it implies a Consent, so it is a token that their Consent is esteemed of considerable weight.

Ceremonies thereof explain'd.

The like signification have several other Ceremonies used at the Coronation, as that of Uction. Now the Custom of anointing Kings, appears to be derived from the *Jews*, and therefore may be presumed to be used for much-what the same Purposes as amongst them. And we know that Uction was never us'd by the *Jews*, but when the course of Descent was broken, or at least controverted; and in those cases it was adhibited for a Confirmation of the Authority of the Person anointed. And therefore since Kings amongst us are never crown'd without Uction, altho they come in by regular Descent, the meaning of the Uction must be plainly this, That

That the Archbishop should by that Ceremony, in the name of the Church and People of *England*, *Deo aspirante*, confirm and ratify unto the King his Royal Sovereignty.

Consent and
Stipulation
signify'd.

And to speak freely; the whole Solemnity of the Coronation appears to carry in it evident Marks of Consent and Stipulation.

And tho the King be King to all purposes of Government before his Coronation (for the Law wisely prefers the Substance, to wit, the Execution of the Regal Office for the good of the Commonwealth, before Matters of Ceremony and State) yet it is certain the Coronation is a Solemnity which ought to be performed in like manner, as the King is of common Right bound (be it spoken with reverence) to take the Oath appointed to be taken thereat.

How the Co-
ronation is
a Formali-
ty.

If it be said, that these things are only Matters of Formality and Ornament: I answer, All these Ceremonies are certainly significant of something; and as it cannot be doubted but they were at first instituted upon just and grave Reasons, so long Custom has made them so essential to the Solemnity of the Coronation, that they cannot be omitted any more than the Coronation it self: Otherwise it is easy to believe that these things, which look so like a making the Regality dependant on Popular Consent, had been before this time laid aside by some dark and jealous Princes.

Crown not
absolutely
Hereditary.

But to pass from this Head; If the Crown of *England* be so absolutely Hereditary as some give out, it might justly be wonder'd that the Sages of the Law should use Expressions so improper, and so contrary to the Law (of which they cannot be supposed ignorant in so great a Case) as those we find in the Year-Book, 7 H. 7. fol. 5. b. pag. 266. Title *Barre*, in *Margine*; where *Hussey* arguing, speaks thus, *Le Court dit qui il serra accompt lan le proch in jour apres la lienation, Come si le Roy murrust cest jour, & mesme le jour un auter est eslieu, En cest case il serra piis le jour de cel que est mort.* And in the same Book and Year of the said King, H. 7. fol. 6. a. p. 167. Title *Error*, in *Margine*, where the words are, *Et issint nient semble un comen Person case lou bome est ullage al suyt del partie en action de Trespass ou dette, ou en tiel case, & le Roy murrust, come devant, & novel electe, & il est utlage sur le exigent come devant, &c.* Here it is plain the Succession of one King to another, is described by the words *eslieu* and *electe*, which import Election: So that the Crown of *England*, tho it be Hereditary, has yet somewhat in it Elective; the Descent thereof being indeed generally exhibited in words that import Heritage, and sometimes in words importing Election. And this is the Sum of what I intended to evince from the foregoing Instances; it not being my design to oppugn or deny the Hereditary Descent of it, but only to shew that the Descent of it is not so unalterably Hereditary but it may, agreeably to the Law, be dispensed with, even in a higher degree than is the case of his present Majesty.

Nor unalte-
rably here-
ditary.

And that the Crown is not unalterably Hereditary will likewise farther appear, if we remember, first, that the Inheritance of the Crown, as well as other private Inheritances, is both founded upon and guided by the Laws of the Realm, of which there is no part but may be changed. And next, that the Crown may be so entail'd by Statute to some Persons, as to bar and prescind the Title of others depending on Lineal Descent, whereby the ordinary course of its Descent will be alter'd. And we are certain, that as the Crown has actually been entail'd by Statute in 4 H. 4. not printed, and by Statute in 22 H. 8. c. 2. extant in print: So it has likewise by Statute in 13 Eliz. c. 1. been declar'd entailable under Penalty of Treason in those who affirm the contrary.

Indeed there is a Statute (not printed in the Statute-Books) made in the first Year of King *Edward* the Fourth, which asserts the Hereditary Descent of the Crown in relation to *Edward* the Fourth, and which declares the Succession of the *Henrys* to have been illegal and unrighteous: But the Ricitals and Declarations in that Act are manifestly grounded on this Supposition, that *Richard* the Second was depos'd and murder'd by *Henry* Earl of *Derby*, who thereupon succeeded to the Crown by the Title of *Henry* the Fourth. And it is clear, so much of that Act as is recited in the Year-Book of 9 E. 4. in *Bagot's* Case, amounts to no more than a Recognition of the Right of *Edward* the Fourth as descended from the House of *York*, in opposition to the Claims of the *Henrys* who came from the House of *Lancaster*, without any respect to the Question we are now upon, as will appear to a diligent peruser of that Act, both from the words of the Act it self, and from the Genealogy therein at large rehearsed. Besides, the words of that Act may very fairly be a little softned, if we consider what Allowance is to be made in that Particular, in respect

respect of the Joy and Transport the Parliament appears to have been then under, for the Restitution of King *Edward* the Fourth, after so much Bloodshed and Desolation as the Contest of the two Houses had occasion'd.

II. As touching Allegiance. The true Nature of it will be evident to us, by considering, That Allegiance or Ligeance with respect to the King (for antiently even Inferior Lords had their Liege-men) imports, as the *Glossaries* tell us, that reciprocal Tie there is between the King and the Subject, binding the one to Protection and just Government, the other to Tribute and Obedience. And these Duties of Protection and Obedience appear to be Correlative: for as the King is *ex Officio* (as Lawyers speak) oblig'd to do equal Justice to all his Subjects, and to govern by Law, and the Subjects are, by implicit obligation of the Law, bound to honour and obey the King; so the Law has appointed reciprocal Oaths to be taken for the better enforcing the performance of these respective Duties, that is, the Coronation Oath on the King's part, and the Oath of Allegiance on the Subjects.

Nature of Allegiance consider'd.

And tho this be the true State of Allegiance in its just Latitude, yet by Custom this word is now most commonly used to signify the Faith and Obedience Subjects owe unto the King. Therefore taking it in this latter sense, it's manifest, that as the Law is the Rule and Measure of our Allegiance, so the King is the Object of it.

Allegiance is due to the King as King, that is, as a Person vested with the Regal Authority. It is the Exercise of Royal Authority that constitutes his politick Capacity, and draws to it the Obedience of the Subjects, and not merely the Descent of a Right to the Crown. For even in cases where the usual course of Succession is interrupted, Allegiance is due to the King in *Possession*, who is called a King *de facto*; and for this cause Treason may be committed against Him, as well as against a King succeeding by Regular Descent: and yet by the Law, Treason cannot be committed against one that is rightful Heir to the Crown (who is for distinction call'd a King *de jure*) at such time as he is out of possession of the Crown.

How Allegiance becomes due.

Nay, the Law does very carefully guard the Person even of a King *de facto* (that is, a King who does not come in by regular Succession) and requires of the Subjects Obedience to Him; insomuch that if Treason be perpetrated against the King *de facto*, such Treason shall not only be punishable by the King *de facto* in his Lifetime, but even by the King *de jure* after the Demise of the King *de facto*.

A King de facto consider'd.

So also Treason committed against a King *de facto*, shall be alledg'd in the Indictment, to be *contra naturalem Ligeantiam Domino Regi debitam*: For as He bears the politick Capacity of a King, so the Law entitles Him to the Allegiance of the Subjects.

In like manner all Judicial and Political Acts done by a King *de facto*, are as valid and obligatory as if they had been done by a rightful King in actual possession of the Throne: Whereas on the contrary, all such Acts done by a King *de jure* who is not in possession of the Crown, are totally void. So little difference doth the Law make in case of the Regality between a Right and a Possession.

From these and such like Instances to be met with in Law-Books, many just Inferences might be made; of which I shall now mention only a few, *viz.* That the Law prefers the Peace and Order of the Polity, before the particular Rights even of the King himself: That the great End of the Regal Authority, and of the Law it self, is the Quiet and Prosperity of the Commonwealth: That the Succession of the Crown of *England* is not by Divine Right, but by Political Institution: That there is little or no difference between the Heir and the Successor to the Crown: That all the Prerogatives and Authorities of the Crown belong to the Successor *de facto*, and not to the Heir *de jure*, or *ex ordine*, being out of Possession: And that Allegiance is payable in such case to the former, and not to the latter.

Instances thereof.

So that since on the one hand, the Allegiance of the People does depend on, and is inseparable from the Regal Authority and Protection; and since on the other hand, their Majesties King *William* and Queen *Mary* are not barely King and Queen *de facto*, but *de jure*, by regular Descent; it may be concluded *a fortiori* from the Premises, that Allegiance is due to Them.

K. W. and Q. M. are K. and Q. de jure and de facto.

If it be said, *Non est hæres viventis*; and so no regular Descent. I answer, First, This Rule relates, not to the Descent of the Crown, but to private Estates; for the Descent of the Crown is not, nor can be order'd in all things by the same

Objections answer'd.

Rules as private Patrimonies, seeing it is an Estate join'd with an Authority or Office. *Secondly*, The Cesser of a King from his Government is really a Demise, and will in Law make a Degree of Descent. *Thirdly*, Where a King in his Lifetime resigns his Government (and the same may be said in case of an Abdication) his next Heir thereupon succeeding may doubtless properly be said to inherit, that is, to take as Heir, notwithstanding his Ancestor be still in life: For he conveys a Title to himself by Heirship, and without that he can have no more Right to succeed than another Man.

Not contrary to
Scripture.

In the next place, if we accurately consider those Precepts in Scripture which enforce Obedience to Magistracy, we may easily see that they were never design'd to state and admeasure the Power of Princes, or the Obedience of the People. The Gospel-Precepts of Charity do not countermand or destroy the Laws of Property or Self-defence; so neither do the Precepts of Obedience to Superiors, the just political Rights of Subjects; nor yet do they give either King or People any ampler Pre-eminences or Rights than they are entitul'd to by the Civil Constitutions: but all civil Pretensions on either side, are left to be decided merely in a civil way.

The Gospel
does not
meddle
with the
Civil
Rights of
Persons.

Our Saviour himself would not undertake to adjust the Civil Rights of private Persons, by passing Sentence for the Division of a single Inheritance; much less can he be suppos'd to have given Laws for settling the publick Rights of Prince and People, or meting out the Power of the one, or the Obedience of the other. And as the Laws of the Land, and not the Precepts of the Gospel, are the measure of the regal Power, and of popular Allegiance: so the Precepts of the Gospel do only operate upon those political Duties which result from the Obligation of the Civil Laws, but do by no means create them.

If the Commands of the Gospel relating to Subjection, were to be understood absolutely and without reserve, they may be extended to alter the very Frame of some Constitutions, and make the Power of the Prince which is by Law bounded, to become Absolute and Illimited; which certainly was far enough from being the design of our Saviour or his Apostles: For if the Subjection of the People must be unlimited and universal, the Power of the King must of consequence be absolute and unlimited too, or at least may be made so whenever he pleases.

Put the case that by the Laws of any Kingdom or Republick, the Governor be removable at pleasure, or for Male-Administration. In such case, altho deposing a Governor be contrary to Subjection to him, yet such Deposal, being warranted by the Laws of the Place, is no breach of the Gospel-Precepts of Obedience to the Powers: Nor will the Gospel-Precepts be any just Restraint upon them from doing what their Law allows of in such Cases. So that it is apparent, these Commands of the Gospel follow the Nature and Disposition of the Civil Constitution, but confer no new Rights or Powers either on King or People, besides what they have by the Civil Laws. And therefore, as these Gospel-Commands were given only as general Rules for Conservation of publick Order, Peace and Justice amongst Men; so they ought to be extended no farther.

But because some Difficulties do arise in the Minds of many People, upon construction of the Oaths of *Allegiance* and *Supremacy*, which have been of late days generally taken, it may not be amiss to enquire briefly into their true Import and Obligation.

Oath of Al-
legiance
when im-
posed, and the
Intention
of it.

Now the Oath of *Allegiance*, impos'd first by Act of Parliament in the third year of King James the First, and since that by divers Statutes appointed to be taken by all Persons in general, and particularly by all that enter into Employments of Trust; in so far as it relates to Allegiance, consists of an Acknowledgment of the King's Right to his Crown and Dominions: A Denial, that the Pope by himself or by any other, has any Power to depose the King, to dispose of his Kingdoms, or to discharge his Subjects from their Obedience, &c. And a Promise, that the Party swearing will, notwithstanding any Excommunication or Deprivation of the King by the Pope, or his absolving the King's Subjects from their Obedience, bear Faith and true Allegiance to his Majesty, his Heirs and Successors, and will defend him and them to the utmost of his Power against all Conspiracies and Attempts, which shall be made against his or their Person, their Crown and Dignity, by reason or colour of any such Sentence or Declaration, or otherwise.

Now to consider the Design and Words of the Oath together, is certainly the way to know its true meaning. The Act which first set up this Oath, is entitul'd,

An Act for the better discovering and repressing of Popish Recusants. And the penning of the Oath shews, the Design of it was and is to secure the King of the Fidelity of Papists, notwithstanding their Obedience to the See of Rome. And from the very Words of it we may easily perceive, that it binds Men to Allegiance (not indefinitely, but) with a Notwithstanding to the pretended Authority of the Pope, which is the thing design'd to be guarded against by the Oath. For the Party swears to bear Fidelity to the King, his Heirs and Successors: How? Notwithstanding the Pope's Excommunication or Deprivation of him, or Absolvement of his Subjects from their Obedience; and likewise to defend him and them: How? against all Conspiracies or Attempts by reason or colour of any Papal Act or Sentence: Every part of the Oath containing somewhat referring to the main Design of it, to wit, Prevention of the mischievous Effects of Popery.

Thus this Oath does not set up a new kind of Allegiance, but was intended to fasten the old more tightly upon a parcel of Men who had learn'd (of the Court of Rome) a way to slip the Knot. So that according to its just meaning, it does only bind the Subjects to bear Allegiance to the King, his Heirs and Successors, in opposition to the usurp'd Jurisdiction and Authority of the See of Rome, claiming a Right to dispose of the Crowns of Princes, and to fix the Measures and Conditions of their Subjects Obedience: The Oath being apparently enjoin'd for a particular end in reference to some sort of Men, whom it was thought necessary to lay under expresser and stricter Ties of Allegiance, than those the Common Law had ordain'd.

No new Allegiance set up by this Oath.

As for the Oath of Supremacy, first impos'd by Statute in the first Year of Queen Elizabeth, and since by others, it consists of three parts; an owning of the King's Supremacy in all Spiritual or Ecclesiastical Things or Causes, as well as Temporal; and that no Foreign Prince, Person, Prelate, State or Potentate, has any Jurisdiction, Power, Superiority, or Authority Ecclesiastical or Spiritual within this Realm: A Renunciation of all Foreign Jurisdctions, Powers, Superiorities or Authorities; and a Promise to bear Faith and true Allegiance to the King, his Heirs and lawful Successors, and to assist and defend all Jurisdctions, Privileges, Pre-eminences and Authorities granted or belonging to the King, his Heirs and Successors, or united and annex'd to the Imperial Crown of this Realm.

Oath of Supremacy consider'd, and the Design of it.

Now from the Act of *primo Eliz.* that establisheth this Oath, which is entitul'd, *An Act to restore to the Crown the antient Jurisdiction over the Estate Ecclesiastical and Spiritual, and abolishing all Foreign Powers repugnant to the same*; and from the Oath it self, three things may be plainly deduc'd: First, That the Oath was instituted purely for securing unto the Crown those Ecclesiastical Jurisdctions and Authorities which antiently belong'd to it, but had then for a great while been usurp'd and exercis'd by the See of Rome. Secondly, That this is not merely an Oath of Temporal Allegiance, but of Allegiance in Ecclesiastical Matters. Thirdly, That the Promise of defending all Jurisdctions and Authorities belonging to the Crown, does likewise relate purely to the Ecclesiastical Powers restor'd to the Crown by this Act, or afterwards to be annex'd to it. And the Clause of defending his Majesty's Jurisdctions and Authorities being closely coupled with that of bearing Faith to him, they cannot be suppos'd to import different things, but may well serve to explain one the other.

Add to this, that it appears the design of the Act was to abolish all Foreign Jurisdctions, and that this Oath was set up for the better Observation and Maintenance of the Act, as 'tis expressly mention'd in the 19th Section of it: So that there was no insight to make the Oath a Rule for Temporal Fidelity.

To disown all foreign Jurisdiction.

Besides, it may be observ'd that the Oath is penn'd with the same Expressions of Jurisdctions, Superiorities, Privileges, Pre-eminences, Authorities, &c. as are us'd in the Body of the Act; as may be seen by comparing the Oath with Section the 1st, 2d, 17th, 18th, &c. in *Keble's Statutes*: whence it is plain the Act and the Oath have both one meaning in that particular; and that if the Act means only Ecclesiastical Jurisdiction, &c. (as 'tis manifest it does) the Oath can mean nothing else.

It is true, the Sacredness of an Oath makes it a strong Tie upon us; but the Intent thereof is to bind, not to entangle us. If the Construction of Oaths, especially long Ones, be not restrain'd to the words and plain intent of them, there will be no end of doubt and scruple in the Minds of tender People.

In short; if we consider the true nature of Allegiance, with respect to the Laws of the Land, the Commands of the Gospel, and the Oaths of Allegiance

Application
of the whole
Discourse.

and Supremacy; the late King's Excussion of his Regal Authority, and the Judgment of the whole Body of the Realm thereupon; the Character their present Majesties bear in this Government, and the Obligation to Obedience unto them we are now by the Law under; we may clearly discern, that our Allegiance to the late King is wholly determin'd, and that it ought now to be paid to their present Majesties, with all the Chearfulness and Fidelity that becomes Loyal Subjects, who have a due regard to the Laws, Religion, Peace and Welfare of their Country.

The CASE of the OATHS Stated.

FOR the clearing of the matter in question, I shall lay down some Cases, which all Casuists agree will invalidate the Obligation of an Oath.

General
Positions.

First, That an Oath cannot cancel a former Obligation.
Secondly, That an Oath does not oblige to Impossibilities; so that when the matter of an Oath either originally is, or by change of circumstances comes to be under either of these two Considerations, the Oath is no longer obligatory.

Now that the late Oaths of Allegiance, &c. taken (as some would have them) in their utmost latitude (such as at all times to aid and assist the King, to oppose him or any commission'd by him upon no pretence whatsoever) does in some Cases interfere with former Obligations, may, I conceive, be easily prov'd.

Origin of
Govern-
ment.

And this will plainly appear, by taking a view of the Origin of Government; what it was at first intended for, and what Relations a man brings himself under, when he is made a Member of a Civil Society.

Surely none will deny, but that Government by the intention of Nature, was ordain'd for the security of Mankind; and that Men have voluntarily resolv'd themselves into Societies to repel Violence, and for the mutual preservation of one another. For tho Self-preservation be the primary aim of every Individual; yet since that cannot be effected without mutual Assistance, 'tis natural for a Man to promise that Aid and Assistance to others, which he expects again from them upon the like exigences: and this I take to be the first natural Obligation a man is under, when he enters himself in a Civil Society.

But since Self-love and Self-interest are oft-times Prejudices too strong for that just and equal return of Kindnesses, which is requisite in all human Societies; Men therefore lay down and submit to external Forms and Rules, which they judg to be the most convenient measures of their Obligations to each other: and from the several sorts of these Rules (which, according to the circumstances of Men and Places, are various) proceed so many different Forms of Government. And then that Person or Persons, who are made as it were Guarantees of this formal Alliance, and to whom the Administration of Affairs according to these Rules is committed, are termed Governors; so that these Governors being, by the contrivance of Nature, as necessary to Mankind as the common Air, there arises a second Obligation upon Men to submit to them, and assist them, which Obligation we therefore call *Natural Allegiance*.

Nature's
tendency to
Govern-
ment.

Thus we see how Nature proceeds in the methods of Government; *First*, By inclining Men to the mutual Assistance of each other in their respective Societies. *Secondly*, And in order to the due observance of this primary Engagement, by inclining them to constitute and submit to Governors, who upon any failure of this natural Duty, shall have power to enforce the Obligation.

So that our Obedience to Governors, being by the sense of Nature founded upon a Supposition, that 'tis consistent with the preservation of the Community which they govern, must not be extended beyond the first design of its Institution: and if their Commands be evidently destructive of that Society over which they preside, they must not only not be obey'd, but oppos'd. For in such a case we must be

be put in mind of our antecedent Obligation; the Conditions of which are not barely not to be instrumental in our Fellow-Citizens Destruction, but to use our utmost Endeavors for their Preservation. And therefore if any Man at the taking of those Oaths, thought he brought himself under an universal Tie of Submission to his Prince, I would fain know he came at first to be absolv'd from his Obligation to the Community: and if this Obligation (when both Duties interfere) be the antecedent, and consequently first takes place; the Person swearing may satisfy himself, that he engag'd himself to the King further than was in his power to do, and so indeed judg himself indiscreet, but not perjur'd.

I foresee an Objection which will be urg'd in this place, That these Oaths were allow'd of by Parliament, which virtually implies the Consent of the whole Nation: and therefore since they have consented that I should take the Oaths in this Latitude, they have thereby absolv'd me from the Obligation of giving the People Assistance upon any pretence whatsoever against the King. *Objection.*

In answer to this I would have every Man consider: *First*, Whether the Parliament did intend the Oaths should be obligatory in that Latitude. And, *Secondly*, if they did intend it, whether they had Power to make them so. *Answer.*

First, That they did not intend it, seems plain from all their subsequent Actions: For if they did intend such an universal Submission, as not to oppose the King upon any pretence whatsoever; they must intend to make him to all intents and purposes Absolute, and consequently give away their share in the Legislative Power; which is plainly otherwise by their constant Recognitions ever since in the Preamble of every Act of Parliament. And that this would be the inevitable consequence of such an unlimited Obligation upon the People, is evident; for what is wanting to make a King at least *de facto* absolute, but that his Subjects should be under a necessity in all Cases not to oppose his Commands? And then a little time and prescription will soon make him so *de jure* too. *The Intention of Parliament in the Oath.*

But I cannot believe that the Legislators would act so inconsistent with themselves, as (in the Declaration they requir'd us to make) to intend it should oblige to the utmost extent of the words; since in some cases it may stand in contradiction to other Oaths we had before taken, and which they afterwards expected should continue in force, viz. the Oaths of Allegiance and Supremacy. By these Oaths we were oblig'd, to the uttermost of our power to defend the King against all Attempts whatsoever, which should be made against his Crown and Dignity; and to defend all Jurisdictions, Privileges, Prebeminences and Authorities belonging to the King, and the Imperial Crown of this Realm. In the Declaration we engag'd not to take up Arms against the King, or those that are commission'd by him, upon any pretence whatsoever. Now we will put the Case (which is not very unlikely) that the King should commission a Marechal of France with a Body of French and Irish Papists to enter his Kingdom, and take possession of the most important Places in it, that he should own the Pope's Authority, and suffer his Legate to exercise Ecclesiastical Jurisdiction within this Realm: the evident consequence of which, would be subjecting the Kingdom to Popery and French Slavery. Let us then in such a case view the Contradictions that would lie in an Englishman's Duty, who had taken all these Oaths in the utmost extent that the words will bear. If he takes up Arms against the French Philistine, then his Declaration condemns him for opposing a Person commission'd by the King upon any pretence whatsoever; and the Security of the King's Crown and Dignity, the Lives, Laws and Liberties of the Subject, are but pretences, tho I must confess of very high concern to the whole Nation. If he sits still, and is contented only to lament the consequence that attends Dragoons and Inquisitions; then how does he fulfil his Oaths of Allegiance and Supremacy, wherein he is engag'd to the uttermost of his Power to defend the King's Crown and Dignity, to defend all Jurisdictions, &c. belonging to the King, and the Imperial Crown of this Realm, when he manifestly perceives all these invaded, and the Spoil divided between a Foreign Prince and a Foreign Prelate? Now, in such a case I leave it to any man to judg, whether by the Laws of Nature, and the Constitution of this Kingdom, the Declaration would remain in force, and not admit of a reserve upon so urgent a necessity. *Not to be taken in a strict sense.*

And if any Man thinks to reconcile the Declaration and the Oaths in this Case, by saying, That the King by giving Commission to a Foreigner to enter his Kingdom, has thereby constructively resign'd his Government; or by saying, That the French General is incapable of a Commission by Law, and therefore that he may be oppos'd, as being no legal Officer: both these Positions turn against them who contend *How to be reconcil'd.*

tend for an unlimited Submission made by the Declaration, and for an universal Allegiance in no case to be alienated. For the first Supposition proves, that the indelible Character may be lost, and that a Crown is not so fix'd, but that a King (as to himself) may void his Throne by an interpretative dereliction: The second proves as much against our *English* Papists, as against the *French*; for they are by the Sense of our Law no more capable of Commissions than so many Salvages; and whoever took up Arms to oppose their illegal Designs, tho the King himself were at the bottom of them, were no more Rebels in Conscience (whatever they might be call'd by a high-strain'd Comment upon some Laws) than if they had rose to seize so many arm'd Thieves, *Irish* Wolves, or a *Romish* Legion. So that in short, tho our Declaration be in general terms, not to oppose any that are commission'd by the King; yet, if my Obedience has still this tacit condition, that the Person commission'd, is qualified by the Laws of the Land; why must not the Law of Nature, which is the Foundation of all Government (to wit, the Preservation of Communities) likewise take place, and be tacitly suppos'd an Exception in all Engagements we make, as to those Cases which are destructive of it?

The Parli-
ament's In-
tention by
that Oath.

But, Secondly, If the Parliament did intend to bring our People under such an intire and universal Submission, as is pretended; yet they had no Power to do so: For no Power can reach further than the reason of its Institution; and if the reason of the Peoples delegating their Power to their Representatives, was to preserve their Lives, Liberties and Privileges, it cannot be suppos'd that this delegated Power can extend to make them Slaves. If a Minor gives his Guardian full Power to manage his Estate, 'tis not in Equity to be suppos'd, that he may not oppose him if he squanders it. Besides, the Parliament could not make a Law which would bring the People under an Obligation contrary to the Law of Nature; because the People themselves could not do it; and therefore, the Power of Parliament could reach no further than theirs from whom it was deriv'd. No man can give another Power to kill him; because the Consent is unnatural, and so is in it self null and void: so no Community can give any Person power to destroy them, either directly, or by consequence; because their being a Community was for their Preservation; and 'tis preposterous in nature, that the Means should be destructive of the End. However, this will not reach those Alterations which are often made for the conveniency of the Government; for a Man may give another Power to give him Physick, but not Poison.

The nature
of the Cor-
poration
Oath.

I know some Men will say, that the Declaration is impos'd in general Terms, and that they cannot make particular Exceptions; and since the Law has no distinctions, they think that 'tis not in their power to make any.

In answer to this, I reply; and 'tis Bishop *Sanderson's* Opinion, that the Words of an Oath, tho never so generally express'd, have still some tacit Exceptions, which must make them consistent with common Equity, whenever they interfere: And when the reason of the Exception is not foreseen, and very unlikely to happen (as 'tis in the Case of a King's endeavouring to ruin his Subjects) he says, 'tis most convenient that the Oath be express'd in the most general terms: his reason is, because ungrateful Exceptions are apt to make our Fidelity suspected, and raise a Jealousy in the Person to whom we swear; and so, in some measure, frustrate the very Design of an Oath. And indeed, our Obligation to the Laws of God themselves, tho express'd in general terms, have been interpreted with reserve, when the matter seem'd to require it; as in the case of the Sabbath, and the Shew-bread: and the Alliance between Husband and Wife, tho our Saviour makes no Exception but that of Adultery (and an Exception is suppos'd commonly to make the Rule the stronger) is by most men judg'd to be dissolv'd in the case of Impotence and Frigidity.

Case of Ne-
cessity to be
consider'd.

'Tis hard to imagine, that human Laws can be so contriv'd but that some Cases of Necessity (and one is enough to ruin the Universality of the Obligation) may be suppos'd, and sometimes happen, which must justly overrule them, and so relieve the Conscience from the guilt of transgressing them; as in the case of a sudden Invasion, where the Country rises in Arms without the King's Commission (which is Treason in form of Law) and yet I hope no one in Equity will charge such men as Traitors for delivering their Country, tho the Prince himself were willing to have it invaded. 'Tis true, men were loth to have such unnatural Instances suppos'd; but I hope the present State of *Ireland*, and a little late Intrigue in *England*, has by this time convinced us, that there is a Religion in the World, which is too angry and rough for the Tenderness of Nature.

Indeed

Indeed some men urge the Inconveniency of a Liberty in the People to oppose the Will of their Prince, even in a case of the greatest Necessity; because others will pretend Necessity where there is none, and so all Government will hang as loose as a Weathercock.

I must confess, if the Dispute were only, which was most Natural, that the People should have an Arbitrary Power of resisting their Prince, or, that the Prince should be in all Cases irresistible, and so govern at Discretion; I should be apt to side with the latter part of the Question, because I had rather trust my self to the Fury of my Prince, than to the madness of the People. But since there is a middle Opinion, which will neither allow the Prince to be precarious, nor the People Slaves; which will keep the Subjects quiet if they be not possess'd, and the King secure if he be not raving; I am inclin'd to think, that this Scheme of Government is most consistent with Nature, and the good of Mankind. And therefore before Subjects can make a Just Defence against their Governours, they must be sure that the Necessity of it be evident and general; they must not be influenc'd by particular mens discontents, as if the whole Frame were tottering; and not mistake that for a common Cause, which perhaps is shrunk into a Faction.

When Resistance necessary.

Neither can we decently argue from the abuse of a Privilege, to the total disuse of it; since we condemn the same Argument in the Papists, when they would prove, that the Scriptures ought not to be read by the Common People, because thereby some of them are apt to broach Heresies and Schisms. But we say, *Let the Heretick answer for himself, and the Rebel receive the reward of his iniquity*: We think it unjust, that for the faults of others we should lose either our Bibles or our Birth-right.

Then the whole matter of this Controversy must turn upon this hinge; whether the Matters of Fact charg'd in the Prince of Orange's Declaration, were true; whether Designs were laid, and almost perfected, to ruin the Kingdom, and bring in Popery; and that, we know, would kindle Fires, not unlike those of Hell, unquenchable. If then these Matters were true, I think a Person who would ruin his People and Government, tho it were for the sake of his Religion, is under as great a natural Incapacity of governing, as if he were a Lunatick or an Idiot: for what difference is there whether a man be destroyed by Zeal or Phrenzy? And would it have been any greater Comfort to the People of Rome, if Nero had burnt their Town out of a well-meaning Design, and not out of a Frolick?

State of the present Controversy.

Having briefly examin'd the Nature and Obligation of the Oaths of Allegiance, &c. as they have hitherto concerned us; I shall further enquire, how they affect us under the present Circumstances, and how far we may in Conscience close with the present Establishment, by taking the New impos'd Oaths, notwithstanding the Force pretended to remain in the former.

And here I must premise what Bishop *Sanderfon* and others say, that an Oath of Allegiance to a Lawful Prince does not add any new Right, but only confirms what was naturally due to him from his Subjects; so that if the Subjects, after taking such an Oath, fail in their Duty, the injury to the Prince is not thereby become greater; only they are render'd the more criminal, by adding Perjury to their Perfidiousness. This I mention, to remove the prejudice some men lie under, by thinking that their Oaths bring them under a stricter Subjection, and that they are not allow'd the same prudential Latitude, as to their Allegiance, with those men who have not taken them. Now therefore if by the Nature of Government, Allegiance it self may in some Cases cease, before the Death, and without the formal Consent of the Prince, then the Oaths founded upon this Allegiance must cease also: So that the pretence of an unalienable Allegiance must drop; and then the Enquiry must be, whether our Case may not admit of as favourable a Construction in this matter as any other.

How far former Oaths affect us.

1st Case. If a King should manifestly go about to destroy his Subjects; I say, in this Case Allegiance ceaseth; because Allegiance, being a Duty arising from a Relation between King and Subjects, and this Relation being founded in general upon the good of Mankind, and in particular upon the preservation of such a Society; where the Foundation does not appear, there the Relation is lost, and consequently all the Duties flowing from that Relation. And so we find in all other Relations whatsoever, that the Obligation is void, when the reason of the Relation ceaseth; as 'tis between Husband and Wife, Master and Servant, in those Cases which are destructive of the Ends of those Relations: and so it is also in some respects as to the Relation between a Father and his Children; for a Father must be consider'd, either

In what Cases Allegiance ceaseth. 1. Destruction of his Subjects.

either as a Person begetting his Children, or as a Person afterwards governing and protecting them; in the first respect the Relation depends upon one antecedent Act, which gives him a perpetual Denomination, which can no more be recall'd than the time past; and so is neither in the Father nor Children's Power to be cancell'd: In the second respect, it depends upon subsequent Acts, and following Conditions; and so either continues, or loses its Force, according to the performance of those Conditions. So that if a Father should endeavour to destroy his Children, they may by the Law of Nature oppose him; and without his leave, put themselves under the protection of another for their preservation. And 'tis plain, that the Duty of Children to their Parents, flowing from the Relation between them, taken in this latter Acceptation, is not of eternal Obligation; since every Wife transfers her Duty from her Father to her Husband, whom she is bound to obey, even in opposition (if it should so happen) to the Commands of her Father.

2. *Alienation of the Kingdom.*

2d Case. If a King should alienate his Kingdom, and give it to a foreign Prince, who is universally reputed an Enemy to the Kingdom; then the Subjects are absolv'd from their Allegiance, because the King has resign'd his Power, and this in the opinion of all men makes him a private Man. And tho here in *England* such an Act would be in it self null as to the Succession, yet it is sufficient to shew the present Possessor's will of relinquishing his Government; and so if the next Person takes place, there is no Injury done to him who voluntarily resigns, because the Resignation is full and good, tho there may be a flaw in the Conveyance.

3. *Just War.*

3d Case. If in a just War, where the Subjects are not bound to assist their Prince, he is brought to such Circumstances, as to be oblig'd to give satisfaction to the Prince who brings his Forces against him; but rather than submit to such legal Terms as are offer'd will leave his Kingdom, without making any Provision for the Government of it: in such a case likewise his Subjects Allegiance ceaseth, because he that leaves the Government of his Subjects must be suppos'd to resign his Interest in them; for Government is so necessary for the Preservation of Subjects, that he who intends to have Subjects, must at the same time intend to have them govern'd. Neither can Force be any excuse in such a case, because Force can be no benefit to a man's Plea, unless it be unjust; a Man can make no advantage of being forc'd by Bailiffs, when he runs away for Debt, because the occasion of the Force was originally from himself, and he might and ought to have prevented it; and therefore if a King will go off, rather than comply with Justice, he then forces himself, and his Desertion is voluntary.

4. *Unjust Force.*

4th Case. But if a lawful Prince should be driven out of his Kingdom by unjust Force, and another set upon his Throne, to whom Allegiance is requir'd to be sworn, notwithstanding the former Oaths to the lawful Prince: I say, then also, if the Force upon the Subjects be irresistible, they may be free to make their Terms with the King *de facto* for their Protection, tho it be in prejudice to their former Allegiance.

Protection given by a King *de facto*.

And the reasonableness of this Liberty in the Subjects will appear, First, from the destructive Consequence of denying it; for then upon any successful Revolution, all that assist the lawful Prince must be destroy'd, and every Conquest must end in the extirpation of the People of that Kingdom which is invaded: So that considering the various Vicissitudes of Governments; how that in some small term of years there is scarce a Country which does not fall under such pressing Necessities; if God had thought fit to oblige Men by such a Principle, he might easily have destroy'd Mankind without the expence of a Deluge. We have indeed heard of Men, who generously laid down their Lives for the Interest of their Country; but that a whole Nation should be ruin'd for the sake of their King, at a time when they are able to do him no Service by it, is a piece of Gallantry that we never yet had an Instance of. When a King is reduc'd to such Extremities, to suffer for him is to fall for the sake of an empty Name, and die Martyrs for an irrecoverable Title. So that the Law of Nature, the Design of Government, and the Practice of all Mankind, will allow Subjects, when the King's Interest is inevitably lost, to endeavour to secure their own, and honorably to deliver up that Allegiance which they cannot any longer defend.

Secondly, Besides that the nature of Allegiance will allow Subjects to enter into Terms with a prevailing Invader, they may likewise rationally presume that they have the consent of the lawful King to do so; and where a formal Consent cannot be had, a tacit one suppos'd upon good grounds is sufficient. This made Bishop

San-

Sanderſon think it lawful to ſubmit to the late Uſurpation, becauſe the Subjects might preſume that they had the King's leave for it; and the reaſon of that Preſumption is founded upon the tenderneſs every King ought to have for his Subjects, who is oblig'd to have the ſame Compaſſion for them that *David* had for his in another Caſe, when he ſaid, *If I have done amiſs, ſtrike me, but what have theſe Sheep done?*

And if we may preſume that the lawful King will conſent that his Subjects ſhould pay an Uſurper ſome Acts of Allegiance in a Caſe of neceſſity; why not, if their Protection can be had upon no other Terms, that he ſhould give them leave totally to transfer it? Like *Solomon's* true Mother, who, for the ſake of her Child, would rather reſign him up wholly to her Enemy, than reſerve to her ſelf a dead and uſeleſs ſhare by the Diviſion. Now there can be no reaſon pretended, why a King ſhould not be preſum'd to give ſuch a conſent, but becauſe he would thereby loſe his Subjects, and a King without Subjects is no King. Let us then ſee whether by the denial of ſuch a Conſent he would not likewiſe loſe his Subjects, tho' after a much more diſmal manner: For if the Subjects entertain ſuch a Principle of a ſtiff perſeverance in their former Allegiance, it muſt oblige the Conqueror to put them all to the Sword; and every Invader muſt, like *Moses*, poſſeſs a Country only by deſtroying all the Inhabitants of the Land.

King without Subjects
no Kings.

But if it be objected, That King *James* does actually require his Subjects Allegiance, by his manifeſt endeavours to regain his Kingdoms; I anſwer, if it be morally impoſſible (and I think that to be impoſſibility enough to invalidate an Oath) that K. *James* ſhould repoſſeſs himſelf of this Kingdom, according to the preſent Diſpoſition of the People, without deſtroying at leaſt ten parts of them; and when all that is done, his Kingdom and Himſelf would be but a Prey to a more powerful Neighbour: I ſay, in ſuch a Caſe we are to conſider the Circumſtances we are in, and then the Queſtion will be, not what Liberty the King does, but what he ought to allow his Subjects; for I think no Subjects are bound to regulate their Actions according to the Spleen and Deluſions of their Princes.

There is nothing more common in Hiſtory than, upon irrefiſtible Force, Inſtances of transferring Allegiance from the lawful Governors to the prevailing Power; which *Livy* therefore frequently expreſſes by *tradere ſe in fidem, accipere in fidem*; and the *Romans* in the like Caſe, when they could afford their Subjects no Aſſiſtance *redire domum, fideque ad ultimum expleta, conſulere ſibi metipſos in præſenti Fortuna jufferunt*, Liv. lib. 23. cap. 20. Nay the *Roman* Greatneſs it ſelf was made up by ſuch Alienations; and that Due which our Saviour commands to be rendered to *Cæſar*, was but of a ſhort ſtanding, and the Effect of a very late Uſurpation.

Force a
reaſon for
transfer-
ring Alle-
giance.

One Scruple is, That the preſent Eſtabliſhment is againſt the Laws of the Land, and therefore we cannot ſubmit to it without tranſgreſſing them. This Argument does upbraid all conquer'd Nations whatſoever, and by it we condemn them for not ſuffering themſelves to be deſtroy'd upon every Revolution ſince the Creation; for I ſuppoſe there is no Nation that has a Law to allow it ſelf to be conquer'd, and yet we find many, when they were reduc'd by Force, who could ſubmit to Terms, tho' with prejudice to their own Conſtitution. I muſt confeſs that to be zealous for Forms of Law, at a time when they are over-rul'd by Force and preſſing Neceſſity, is like the Man of *Gotham*, who when he was overtaken by a Storm, ſtood ſtill, and would not ride for ſhelter, becauſe he had wiſely obſerv'd, that it was not customary to travel in foul weather. But 'tis not very agreeable to ſtickle for Laws, when at the ſame time we tranſgreſs them; we cannot eat and drink without increaſing the Revenue, and ſo in ſome meaſure aid and aſſiſt Uſurpers; we cannot ſleep without owning their Protection: and if we cannot juſtify theſe Actions but by the Plea of Neceſſity, let us carry the Neceſſity a little higher, and conſider whether any Law of a Society obligeth to the Confuſion of it; and whether we may not for the ſake of Peace ſubmit to an Eſtabliſhment, which ordinarily we could not approve.

Preſent
Settlement
not againſt
Law.

But ſince the Statute of *Henry* the Seventh is part of our Law, I think we may juſtly take the advantage of it; and according to my Lord *Bacon's* Character, the Spirit of this Law was wonderful, pious and noble. I believe the deſign and uſe of that Law appears viſibly in our Caſe; 'twas to indemnify the Subjects for making Terms and ſubmitting to the King *de facto*, tho' the true Right might be in another: ſo that this liberty being legally granted, it ſecures us from any guilt we can contract

Nature of
H. VII.
Statute.

in this Case from the Laws of the Land; and as for the Law of Nature, I hope it sufficiently appears that this Liberty is consistent with it.

Nothing now remains but to compare our present Behaviour with that of the Nobility, Gentry, and Clergy, during the late times; whose steady Loyalty is thought by some to be a reproach to our Inconstancy.

Let us then impartially consider the Circumstances of those worthy Sufferers during the Reign of King *Charles* the First, together with our own; and then judge whether we are not a little too severe upon our selves, to make our Sufferings parallel, when the reasons of them are so infinitely different. Those worthy Patriots were oblig'd to stand by their King by all the ties of Love, Honour, Gratitude, and Generosity; the Difficulties he engag'd in were for their sakes, and indeed he fought their Battels; so that if he had not been their King, they must have stuck to him as their Captain. He might have purchas'd his own Peace, if he had sacrific'd their Interest: and then after such endearing Obligations, when they unfortunately found that they had lost not only their King, but their Friend, and that in his stead *Dagon* was set up; 'tis no wonder if their Resentments could not easily be cooled, and that they would refuse to enter into terms with Misery and Confusion.

Present
Case differ-
ent from
that under
Ch. I.

But the Case of every Church of *England*-man is now quite otherwise (I speak of those who are truly such; as for those of our Communion, who by their servile Compliance shew'd they had no Conscience in the last Reign, it will but ill become them to pretend to one in this; and therefore I am not concern'd if they are not included in the Argument) I say, their Loyalty to King *James* is not to be consider'd with the addition of any Favours, but as bare and naked as a *French* Gally-slave owes to his Sovereign Persecutor. Nay, their Loyalty was highly provok'd, and I am apt to believe industriously tempted; their Loyalty was disoblig'd so far beyond human Patience, that nothing but their holy Religion could have kept it steady. They bore all the Affronts that the Pride and Insolence of that Conclave could throw upon them; they had their Nobility and Gentry disgrac'd, their Bishops imprison'd, their Clergy harass'd, their Laws trampled upon, their Religion and Liberties unjustly assaulted; and all these, compar'd to what was in all human probability to follow, but the beginning of Sorrows. All these Indignities they endur'd with great evenness of Temper, tho considering their strength they might with all imaginable ease have check'd their Persecutors, shak'd off the Yoke, and asserted their Freedom; yet among all these Hardships they stir'd not in their own defence, their mighty Deliverance was not from themselves, neither was it their own Arm that helped them.

Let us again consider the difference in the Case of the present Church of *England*-men, and those of the late times, in respect of the Persons who are set up, and claim our Allegiance. They must have submitted to a Set of Men, who had pluck'd up the whole Government in Church and State by the roots; so that they might as well have join'd with Anarchy, as with such a Scheme of Government. The *Presbyterian* Rump-Parliament, Army, and Independent Model all jumbled together, the very best singly scarce tolerable, but a Jargon of all, impossible to be endur'd. So that the Gentlemen of those times could not endure to see such a Farce of Government without indignation; and therefore no doubt but they had still Hopes and vigorous Resolutions to have their own again re-establish'd; and then they could not swear to a Party, which they were engag'd to oppose.

The Nation
thinks the
present Set-
tlement
necessary.

But the Royal Persons who now sit upon the Throne, tho they are there before our hopes, yet if they had been four years sooner, they could not have been there before our wishes. And if there be a small flaw in their Settlement, in respect of the strict Rules of our Constitution, yet 'tis but what the Wisdom of the Nation thought in this Conjunction necessary, and the Persons concern'd in it have allow'd. So that as to that side any Scruple will be groundless. And as for bringing back King *James*, I know none that have an Inclination to it, but those who can take Oaths, and afterwards find an easy Expedient to be absolv'd from them. Whatever Severities our Religion requires us to suffer from Popery when in possession, I am sure it does not oblige us to contribute to the bringing of it in; and therefore if we reserve our Allegiance, only lest King *James* with a foreign Force should be able to demand it of us, I am afraid we must then be forc'd to transfer it with a vengeance, and what we deny for the Protection and Favours of King *William*, we must sacrifice to the Fury of King *Lewis*.

I cannot see, how closing with the present Establishment can be any blemish to our Religion, since I cannot find the case prohibited in any part of the Bible. I am sure

sure God by the mouth of his Prophet commands his People *Israel*, when they were conquer'd and reduc'd to Extremities, to serve the King of *Babylon*, and live, *Jer. 27. 17.* And as for the security of Government, such extraordinary Instances must not be reduc'd into common practice; and Passive Obedience will have its use in several Cases, for all the Jest's that are now made upon it. For if Passive Obedience be not a Duty, there is no Rebellion in nature; and all Governments are as much oblig'd to this Doctrine truly stated, as they are to the 13th Chap. to the *Romans*.

Having now briefly consider'd all the Objections that are made against submitting to the present Establishment, I think none remain but what are more trivial, and either come directly under these Cases mention'd, or considering our Circumstances are easily reducible to them. So that those conscientious Persons who scruple the Oaths, can in modesty suppose their Opinion to be at best but probable; since so many worthy men take the Oaths, and so many Arguments are daily produc'd to justify the action: then let them consider, whether they are oblig'd to let their Religion, the Peace of their Country, their own Liberties and Properties suffer a manifest Inconvenience, to maintain a doubtful Cause, and to defend a Loyalty founded only upon the impractical notions of some Speculative men, and a thin metaphysical Scheme of Government. I hope therefore they will not suffer the Penalties of the late Act (I dare say ungrateful to the Imposers) to take place, and so deprive themselves of their own necessary support, and the Government of their service.

*The DOCTRINE of Non-resistance
or Passive Obedience no way concern'd in the Contro-
versies now depending between the Williamites and
the Jacobites.*

I Have with some impatience and wonder beheld the bandying of the *Non-resisting Doctrine* to and fro in this disturb'd Kingdom, for so many months, and to so little purpose; because I am not able to comprehend what any of the contending Parties would be at, nor why that Doctrine, rather than any other, should be made now the Subject of our Disquisitions and Inquiries.

For what if God has forbidden us upon pain of Damnation, to resist our Lawful Princes when they do amiss; and has reserv'd to himself the Censure and Punishment of his own Ministers, as I believe all lawful Princes are such; and that God has for great and wise Reasons tied up our hands; doth it therefore follow from hence, that *James* is still the Lawful King of *England*? Or that when he was so, we that believe the *Non-resisting Doctrine*, were bound to fight for him, whatever he did?

*The Use-
fulness of
that De-
bate stated.*

And on the other side, what can the Friends of their present Majesties pretend, to palliate their Contempt and Scorn of the Doctrine of Passive Obedience? It was indeed dangerous to them when he first enter'd *England*, because all that believ'd themselves bound by it, were oblig'd not to take up Arms for him against King *James*; and so consequently it depriv'd him of their Assistance. But when he had once subdu'd the Forces, and obtain'd the Throne of that infatuated Monarch, of what use can it be to him to have his Subjects so frequently told, That it is lawful for them to take Arms and defend themselves, their Rights and Religion, against him? I doubt not but his Majesty intends to govern us with the utmost Clemency and Mercy according to our Laws: But when neither *Moses* nor *David* could always please their Subjects, it is to be fear'd the best of Princes may at one time or other need the Influence of the Doctrine of Passive Obedience, to restrain the madness of the People; and therefore they can be no Friends to Government in general, nor to him or his in particular, who are so zealous to have the Doctrine of Non-resistance

extirpated out of the World. The Consequence of which is, *That it is lawful for every Man to rebel against his lawful Prince whenever he thinks it necessary.*

The Author's Design to prove the unseasonableness of that Controversy.

My Design therefore in this Discourse being to put an end, as far as I can, to this unseasonable Dispute, I shall endeavour to prove these Particulars, as to the Friends of the late King :

1. That those that believ'd it, were not thereby bound to assert the Misgovernment of *James the Second*.

2. That seeing he has deserted his Throne, and withdrawn his Person and Seals, they are not thereby oblig'd to endeavour the restoring of him.

Passive Obedience obliges not any to allow of the Misgovernment of his Prince.

The Doctrine of Passive Obedience doth not oblige a Subject to assert the Misgovernment of his Prince: For it supposeth the Prince may command what he ought not, and then it obligeth me to suffer rather than to resist my Prince, or to break the Commandments of God, or the Laws of my Country, or do any other ill Action in obedience to his Commands. Now what is this to the purpose? King *James* had notoriously subverted all our Constitutions and Laws both in Church and State, and would suffer no redress; the Church of *England* on the other hand, petition'd him from time to time, by her Bishops and Nobility, to suffer a Parliament to meet and redress our Grievances; but this he would not yield, and what should they do in this Case?

Why, said the Jesuit, in the Answer to the Petition of the 17th of *November*, 1688. (when they had set forth, (x) *That in their Opinion the only visible way to preserve his Majesty and this his Kingdom, would be the calling of a Parliament regular and free in all its Circumstances*) "I hope to make it out, that the summoning a Parliament now, is so far from being the only way to effect these things, that it will be one of the principal Causes of much Misery to the Kingdom. And, I am sure, both our Duty to God and our holy Religion, as well as to his Majesty and our Country, doth plainly enjoin us to use one other effectual means, &c. which is the keeping inviolably to our Allegiance to our Sovereign; and effectually joining with him to resist all his Enemies, whether foreign Aggressors, or native Rebels. That is, let the King do what he please to you, you are bound to fight for him and expel the Prince of *Orange*, and subdue all his Adherents.

That Doctrine had no effect to keep in K. J.

I can very well remember what small effect this Oratory had then upon the Minds of all Men. There did not seem to be one Protestant in the Nation, who could not distinguish between the Doctrine of Non-resistance, and that of actually aiding a Prince to destroy and enslave his People. His late Majesty however persisted in his Opinion, that no Parliament could be holden till the Prince of *Orange* was driven out; and the Clergy and Nobility in theirs, that this was the only visible way to preserve the late King and Kingdom: which imply'd, that all fighting was dangerous to both till this was done. And accordingly, as we had no disloyal Exhortations from Press or Pulpit to persuade Men to fight against their Prince, so neither had we any to persuade us to fight for him; but the thing was committed to God to determine as he thought fit.

Who are responsible.

In this our Bishops, Clergy, Nobility and Gentry, and in general all the Children of the Church of *England* behaved themselves like good Christians, and good Subjects too. This difficult Case could then be no otherwise well and justifiably managed; and if some few forgot their Duty, and declar'd too soon for the Prince of *Orange*, his now Majesty, this they are responsible for: those that adhered to the late King till he actually left the Nation, and the Government fell for want of the first Mover, are not responsible for their Miscarriage if it was one.

The practice of the Primitive Times.

In the Primitive Times, when this Doctrine was best both understood and practis'd, their Loyalty was one of their lesser Virtues, upon which they never valued themselves. It would have been then a mean piece of Virtue for a Man to alledge he had been ever Loyal to his Prince, when a Rebel or a Traitor Christian was a thing they look'd upon with horror and affrightment; they expected Martyrdom every moment, and were preparing for it at all times; they were told then, at their first admission into the Church, that they must expect Persecution; and every one who took up that Profession, did it with that expectation. And their Religion being contrary to the establish'd Laws, whoever came into it knew beforehand, that at one time or other he might be call'd to lay down his Life for it; and when it happen'd, it was no new or unexpected Accident, but foreseen and provided for.

(x) *Vid.* History of the Desertion, in the month of *November*, printed in this Collection.

But then they were not so silly as to be fond of their Persecution, or to wish or fight for it. We are, said (a) *Tertullian*, defam'd as Enemies to the Emperor's Majesty; *Tamen nunquam Albiniani, nec Nigriani vel Cassiani inveniri potuerunt Christiani*: (b) Yet never was any Christian found like Albinus, Pescennius, Niger or Avidius Cassius usurping the Throne, and invading the Government. They prayed for the Emperor, and perform'd all the Duties of good Subjects, till he persecuted them, and endeavour'd to destroy the Church of God; but then they changed their Notes: (c) *Quales ergo leges istæ, quas adversus nos soli exequuntur impii, injusti, turpes, truces, vani, dementes?* What Laws are these which none ever put in execution against us, but impious, unjust, base, barbarous, vain and mad Princes? Whoever pleaseth may see enough of this laid together in *Jovian*, pag. 161, and 162. There is not one of those Princes who persecuted the Church, but he is represented to the World by the Fathers and Church Historians in the blackest Characters. That little Book that was written by *Lactantius* to shew the dismal End, and sad Catastrophes of the persecuting Princes, shews how far they were from being fond of Persecution or Persecutors; and by what hand soever the enrag'd Fool fell, the Deliverance was ascrib'd to God, who makes use of such Instruments as he thinks fit to punish bloody and tyrannical Men. And let any Man shew me that the Primitive Christians were discontented when they were delivered, if he can.

So far were some of the antient Fathers from fighting for the persecuting Princes, when they hapned to be dethron'd or invaded, that they would not suffer a baptiz'd Person to list himself in the Service of a Pagan Prince, *Tertullian de corona*, cap. 11. To which purposethat takes the Sword, shall perish by the Sword: But then, saith he, *Plane si quos militia præventos fides posterior invenit, alia conditio est.* Those who were admitted to Baptism after they were listed in the Service of the Emperor, were not under the same Obligation. And we have the Passion of one (d) *Maximilian* an African, who suffer'd Martyrdom for no other Cause, but for that he would not serve the Emperor as a Soldier. And the Council of *Arles*, which first admitted baptiz'd Persons to take up Arms, limited the Grant to times of Peace; which was all one with the saying, They would not allow it under Pagan Princes. From all which I may reasonably infer, They did not think themselves bound to bestir themselves for Pagan or Persecuting Princes, as if the Church must have perished if they had not had the honour to preserve every Prince God had set over them till he had ended his Reign and his Life together.

Yet in all these Times the Doctrine of Passive Obedience, tho at the highest, was never call'd in question, never doubted of. It is as true also, the Roman Emperors under whom they liv'd, were Absolute, Independent Princes, whose Will was the Law, and the Constitution of the Empire differ'd vastly from that of *England*. So that we are not under the same Obligations they were, because our Princes have not the same legal Powers the Roman Emperors had: But then, I doubt not but we are as much bound to submit to the legal Commands of a King of *England*, as the Primitive Christians were to the legal Commands of their Princes. But this was no part of the Controversy under the Reign of *James II.* who had as little Law as Reason for what he did.

I could never meet with one single Protestant, how discontented soever he was that *James II.* is not still King of *England*, who would pretend to justify or excuse any of his Actions; no, they all grant his Design was certainly to extirpate the Protestant Religion, to enslave, and consequently to extirpate the *English* Nation: But then say they, What of all that, *no Evil is to be done*; we ought not to rebel to save a Church or Nation.

Why, what then? supposing all this were true, What is this to them? Have any of them rebelled? Yes, say they, all that have sworn Allegiance to their present Majesties, have made defection from *James II.* who tho he were never so bad a Man, is still our lawful Prince, and we are bound to swear Allegiance to no other as long as he is alive.

To this I reply, If the things laid to the Charge of *James II.* in the Prince of Orange's Declaration, are true, and I think no body questions that, for all the same

(a) *Ad Scapulam*, c. 2. (b) *Apolog.* C. 35. (d) *Anno Christi 295. Cum Ecclesia pace gauderet, & proinde in Maximilianum animadvertitur ob spre-*
(c) *Euseb. H. E. lib. 7. c. 1. lib. 10. c. 10. de Vita Const. lib. 2. c. 2. Tertul. Apol. cap. 6.* tam Militiam, non ob fidem Christianam.

Pr. of O.
justify'd.

things in a manner are complained of in the Bishops Proposals but one or two, which were too high for any Subject to take notice of; why then, I say, that Prince had a just Cause to make War upon *James II.* and if he was conquer'd by him, he has as good Right to our Allegiance on that score, as ever any conquering Prince had.

But this is not all, it is well known his now Majesty offer'd to submit all his Controversies to the Decision of an *English* Parliament, which is more perhaps than was ever done by any invading Prince before: yet *James II.* was resolv'd, that neither he nor we should have any Right or Redress; but rather than submit to that, he would go make a Voyage to his most Christian Majesty for his Assistance to make a second Conquest of us.

There has been much bandying, Whether *James II.* went voluntarily away, or were forc'd? and this is a Question not worth one Farthing at the bottom. For if he went voluntarily, he was forc'd; and if he was forc'd, he went voluntarily.

I suppose no Man ever said or thought he freely resign'd the Crown, but that his Misgovernment had rais'd such Jealousies and Discontents in the Minds of his Subjects, that they neither could nor would fight for him till he had in Parliament done Right, first to his People, and then to the Prince. This he was resolv'd not to grant, be the Event what it would; and when he saw himself deserted by all the World, still he persisted in his Resolution; and after he had promised a Parliament, he broke his Word with the Prince and the Nation, and withdrew his Person and Seals, and left us in Anarchy and Confusion. Now, I say, he was not forc'd to do this: He might, and as the Case stood, he was bound to have granted a Parliament; and then he might have staid with good safety to his Person and Sovereignty.

Now, if there be nothing ask'd of a Prince by his Neighbour-Prince upon an Invasion but what he ought to grant and may grant, he is forced by no body but himself, if he will run away from his People rather than do them and his Neighbour Right.

A Free Par-
liament
desir'd by
the Prince.

But then when we say, His Retreat was voluntary, we do not pretend there was no Force made use of, but that it was not made use of to that End. All that was ask'd by the Prince or his own Subjects, was a Free and Legal Parliament, and all the Force that was us'd was to that End: And this he might and ought to have granted; but if he would not, the Prince is not to be suppos'd to have brought 14000 Men only to make a vain shew withal, but either to force him to do him Right, or force him out of his Kingdom.

This Prince was no Subject to King *James*, nor to any other Prince, and consequently was no Rebel: He had as well a good Right, as a good Cause to invade this injurious Prince, who had injur'd both him and his good Subjects, and without a War would do no Right either to the Prince or us: For the Prince had try'd all fair Ways before he try'd Force, as is notoriously known to all the World.

But our *Jacobites* prate of the Force that was us'd against him by another Sovereign Prince as injurious, only because it was Force. Why, the Prince was no Subject; and if *James II.* would do him no Right without Force (tho we that were then his Subjects had no Right to compel him) he might lawfully compel him by Force to do what he ought to have done without it, but would not.

The ridicu-
lousness of
Jacobi-
tism.

What stupidity is it to deny a Sovereign Prince may make use of Force against a neighbouring Prince that has done him wrong?

Well, but say they, His Subjects ought to have fought for King *James*: To which I say, Why did they not, who hindred them from fighting? No, they would not fight, or, which is all one, they durst not; and now he is gone, they think to make him amends, by a sullen disclaiming of the present King's Sovereignty.

But tho they will not swear, they will promise to live peaceably under this King: that is, they will not own him for the lawful King of *England*, but they will submit to him as they did to *Oliver Cromwel*, till they have an opportunity to dethrone him, and deliver him into the hand of King *James*; and for this they would be allowed the same condition with those Subjects that have sworn Allegiance to him. Is this reasonable? will they admit a Servant or a Rival on the same Terms into their own Families?

Objection.
Answer.

Well but some of his Subjects forsook, and others of them fought against him, and almost all the rest stood still and would not fight for him. 1. What is this to them? if they have done as much for him as they could or ought, they shall answer for

for none but themselves? 2. What was the Reason, and who gave the Cause of this general Desertion? 3. It is denied that King James his Subjects were bound to stand by him and fight for him. He had notoriously invaded and destroyed all our Civil and Religious Rights and Liberties, and design'd the ruin and destruction both of them and us, and would give us no Assurance we could rely on to do otherwise for the future; and therefore if it were unlawful to resist him, it was also as unlawful to assist and enable him to destroy the true Religion, the *English* Liberties and Immunities, nay the very Nation.

Now *Jovian* tells us, pag. 272. "Whosoever acts contrary to Law in this Realm, to the prejudice of any other Person, must be subject to make Reparation by Law; against which the King himself can protect no Man, as long as the Courts of Law are kept open (this has been sufficiently confuted) so that there can be no Tyranny, nor any Persecution, but a most exorbitant and illegal Persecution, which must presuppose, That Justice is obstructed, the Laws and Lawyers silenced, the Courts of Judicature shut up, and that the King governs altogether by Arbitrary Power and the Sword. (The Courts were indeed open, but we know for all that, no Man could have any Redress, but the Consequences were the same as if they had been shut up.) "But to suppose this (saith the Doctor) is plainly to suppose the utmost possibility, which is next to an Impossibility, a Possibility indeed in Theory, but scarce to be reduc'd into Practice: For in such a violent Undertaking all good Men would withdraw from the Service and Assistance of the King (mark that) and the Bad durst not serve him, because if he died, or repented of his Undertaking, they must be answerable for all the Wrongs and Illegalities they were guilty of in his Service. And a little lower he tells us, "To shut up the Laws, or obstruct and pervert Justice, would prove an exceeding difficult and almost impracticable Undertaking, because all his good Subjects, and all the bad too that tender'd their own Safety, would desert him; nay, Foreigners upon this account would make a difficulty to serve him, because he could not protect them against his own Laws.

Injuries must be repaired.

Now all this was done and averred in the Face of the Sun, this Possibility was brought into act, and things driven on to the utmost Extremity: and the only Question then was, Whether we should intail this arbitrary tyrannical exorbitant Persecution on our Posterity, without any hopes or possibility of Redress; or whether we should withdraw from his Service, and secure our Rights and Religion by it? And this was done by all but the *Irish* and *Papists*, both good and bad, in a manner as the Doctor foretold it would; and to me it seems altogether justifiable. I know the Doctor means only a civil Recess; but if it was highly punishable and infamous to have persisted in a co-operation and assistance of these things, it was worse and more punishable to have fought for them.

A Dilemma.

And from hence I conclude, All that did withdraw from the Service of the late King, when they saw he was resolved on these illegal exorbitant Courses, are not to be blam'd; and that the best of the Primitive Christians would have done the same thing, if it had been their Lot to have fall'n under such a Prince.

Tertullian, de Corona c. 12. expounds that place of Scripture, Give unto Cesar the things that are Cesar's, and unto God the things that are God's; Give the Man to God, and the Penny to Cesar: The Man bore God's Image, as the Penny did Cesar's; and when God and Cesar were in opposition, the whole Man was God's Right. So far were they from thinking, their Loyalty to their Prince oblig'd them to be disloyal to their Religion, even when they never thought of resisting, that their hands were tied up neither to assist nor resist a persecuting Prince, and they would do neither of these tho they perish'd. And are not we still under the same Obligations as to the latter as well as the former? For shame, let no Man boast of that Loyalty to his Prince, which makes him Disloyal to God and his Church, to whom his Duty is first owing; for in this case it is our undoubted Duty to obey God rather than Man. Art thou then (saith *Tertullian*) a Servant and Soldier to two, to God and Cesar too? certainly thou wilt not be for Cesar when thou owest thy Service to God: even in common things, I yield to the better; or I believe thou wilt be for the better. So far were they then from valuing themselves upon the score of their Loyalty to their Prince.

The Disloyalty of two other Parties has made the Church of *England* take into the contrary Extreme: And as a Jesuit wished it might do her much good, in scorn; so she had like to have paid too dear for the Pretence: and they that would now again

again sacrifice her to their Interest and Reputation, are, to speak softly, none of her best Friends.

Ridiculous
Principles.

They pretend we have not suffer'd enough for our Religion to justify our Resistance : Why ? according to their Principles we are never to resist, whatever we suffer, but to suffer on till there is not one Man left to resist. Now did ever any Man before they complain, that *for the Elect's sake God had shorten'd those days* ? If they think we have not suffer'd enough for our Religion, they may be pleas'd to go for *France or Ireland*, and there make up what is wanting : But if they love Company, and would needs have us suffer with them too, I do not understand the Favour. If they are prodigal of their own Lives and Fortunes in this World, they ought to be tender of other Men's : *Cruces nec colimus, nec optamus ; We neither worship nor wish for Crosses*, said *Octavius*, a Primitive Christian : And it is madness to desire to be, and to bring others into Affliction and Trouble, when God doth not willingly afflict or grieve the Children of Men, and hath sent us a Deliverance before we expected it, and sooner than some Men are well-pleas'd.

K.W. does
not pretend
to Conquest.
Grotius.

They have another Objection, which is full as extravagant as this ; If, say they, King *William* has conquer'd King *James*, why does he not claim the Crown by Conquest ? Why, he that has several Rights to the same thing, may use his best, and wave the rest. *Nemo jure suo quod cum damni periculo conjunctum est, uti cogitur* ; No Man is bound to produce an invidious Title. Should King *William* have treated us as a conquer'd People, they would have been the first that would have complain'd, who now complain only because they have not that Case. The truth is, they would have him claim as a Conqueror, that they might thence take occasion to ruin him ; but he has the Right of a Conqueror, and the Right of a Lawful Successor too : and tho his own personal Right of Succession is more remote, that of his Lady is immediate ; and by it he claims, to our great Good and his immortal Honour. And they, in the mean time, might if they pleas'd, be as satisfy'd in the Right he has by Conquest, as the *Saxons* were, when *K. William I.* won the Crown in a Battel, and wore it, under the pretence of an Election, because he could lay no Claim to it by Succession : And *Henry VII.* twisted his Right by Conquest with his Descent from *Lancaster*, and his Right by Marriage. But these Men seem not to care which way our Ruin come, if we may but be miserable ; we have not suffer'd enough under King *James*, but he too would fain come in by Conquest ; and if ever he get the Crown again that way, these Gentlemen will have no reason to complain of the want of Sufferings.

Tertullian, who wrote his Apology for the Christians in or about the year of Christ CC. as *Pamelius* stateth the time in his Annals of the Life of that Father, saith in his first Apology, c. 37. *If we Christians would become your publick and declar'd Enemies, or secret Revengers of our own Wrongs, should we want Force and Number to support it ? We exceed the Moors, the Marcomans and the Parthians, or any other one single Nation in the whole World ; we are but of Yesterday, and yet have fill'd all your Places, your Cities, your Islands, Castles, Corporations, Councils, Tribes, Companies, Palace, Senate and Forum or Market-place ; and we have left you nothing to enjoy alone but your Temples. Now we who so willingly lay down our Lives, are we not thereby fitted and prepar'd, do you think, to manage any War, tho we were very much inferiour in number ; if our Religion did not oblige us, rather to suffer Death than to inflict it ? We might without Arms or Resistance, barely by disagreeing with you, and the Envy of a Separation, very much endanger and disquiet you : for if so great a part of the Empire, as we now make, should break it self off from the rest, and retire into any remote Corner of the World, it would certainly confound your Dominions to lose so many Subjects, be their Quality what it will ; yea, our very Departure from you would be a severe Punishment ; the Desolation and Silence we should leave behind us, would strike you with an Horror and Amazement, as if the World were expiring : you would be forc'd to seek for new Subjects to supply our Places, and perhaps we should leave you more Enemies than Subjects or Defenders.* This Place has been often cited to prove the Doctrine of Passive-Obedience, and in truth it is a noble Testimony of the Faith and Patience of those Saints : But then the Church continu'd after this under Pagan and Persecuting Princes one hundred and ten years, and something more, in which short time there are reckon'd about twenty nine Emperors, their times being short, and their ends bloody, they almost all of them perishing by the Sword. Did any of the Primitive Christians in those days make any scruple to submit to the prevailing Power ? The same Author, in this very Apology, puts the Question to the Pagans, *Unde Cassii, Nigri, & Albini, &c. de Romanis (nisi fallor) id est, de non Christianis.*

From

From whence are all your Usurpers, Traitors and Rebels? They were (if I am not deceiv'd) all Romans, that is, no Christians. Those very loyal Pagans that persecuted the poor Christians, because they would not sacrifice for the safety of the Empire and Emperor: Those loyal Pagans, who would swear falsely by all their Gods, rather than by the single Genius of the Emperor, they were the Men that so frequently depos'd, murder'd and destroy'd their Princes; that in one hundred and ten years there was about thirty of them, and scarce three in all that time that died a natural Death.

But where were the numerous body of loyal Christians in the mean time, who, as he tells *Scapula*, (a) were so great a Multitude, that they were almost the greatest part of every City? and as he tells us in the other Apology, they were fit to have undertaken any the most dangerous War, tho they had been inferior in Numbers, who so stoutly and fearlessly suffer'd Deaths, that were extraordinarily dreadful for their Religion. Why did they not appear in the defence of some of these poor miserable Emperors, who were thus slaughter'd one upon the neck of another? How could they satisfy their Consciences to pay their Allegiance to thirty Emperors in one hundred and ten years, and suffer above twenty of these to be depos'd and murder'd, without ever in the least concerning themselves what became of them, or who was in the Imperial Throne. Certainly here was some reason for this, it was not Cowardice; never in any Age were there greater numbers of Heroical Martyrs than in this Century; four of the ten Persecutions fell in this short period of time, and they bore them with all the Bravery that any of their Ancestors had shewn. The deposing Doctrine was not then dreamt of; at the end of this dreadful Century they were as innocent as at the beginning of it, there was never a Traytor or Usurper to be yet charg'd upon the Christian Church. Well, but what then, why did they suffer the Pagans to murder their Princes at this rate? How could they, in conscience, pray for thirty Emperors in one hundred and ten years, most of whom were stain'd with the Royal Blood of their Predecessors; and who had no other Title than that of a prosperous Usurpation and a successful Rebellion? Let the *Jacobites* of our Age come forth now, and try if they can justify these Primitive Christians in all this, let them produce their Arguments and form Apologies for them, which shall not at the same time be unanswerable Objections against their own Practice.

All that I can say for these Holy Men, is this, They follow'd the Example of our Saviour; and, as he said in another case, who made me a Judg and a Divider of Civil Inheritances, or of the Titles and Claims of Princes? So they said here, Who has given us Power or Command to interest our selves in these things? If we do our Duty, and submit to and pray for those Powers that we find set over us, by Men as the Instruments, by God as the great Disposer of Crowns and Scepters, we are safe; for it is he that ruleth in the Kingdoms of Men, and sets over them The basest of Men, such as *Oliver Cromwel* was, Kings given to the sinful Nations in his Wrath, and sometimes as suddenly again taken away in his Anger; and at others continu'd longer for the Trial of his People, or the Chastisement of wicked Men. *St. Austin* (b) saith, Let us ascribe the Gift of Kingdoms and Imperial Powers to none but the true God, be that gives eternal Felicity in the Kingdom of Heaven to none but the Pious; but the earthly Kingdom, both to the Good and to the Bad, as he pleaseth, who is not pleas'd with Injustice: For tho we should in this case say all we know, yet it would at last be impossible for us to search the hearts of Men, and by a clear Discovery to judg of the Justice of (God in relation to) Kingdoms. That one true God therefore, who needs neither the Approbation (Judgment) nor Assistance of Men, when he pleas'd, and as far as he pleas'd, gave the Empire of the World to the Romans, who gave it before that to the Assyrians and Persians. And a little lower, 'He that gave the Kingdom or Empire to *Marius*, gave it to *Julius Cæsar*; he that gave it to *Augustus*, gave it also to *Nero*; he that gave it to *Vespasian* and *Titus*, two merciful sweet Princes, gave it also to *Domitian*, a most cruel Prince: And that I may not be forc'd (saith he) to run thro all the Particulars, he that gave it to *Constantine* a Christian, gave it to *Julian* an Apostate, whose great Parts and sacrilegious and detestable Curiosity was deceiv'd by the Love of Empire; who trusting afterwards in those vain Oracles to which he was too much addicted, and being too secure of the Victory

The Behaviour of the Primitive Christians towards their Emperors.

(a) Cap. 2. *Tanta hominum multitudo, pars pene major Civitatis cujusque.*

(b) *De Civitate Dei*, lib. 5. cap. 21.

‘ they had promis’d him, burnt his Navy on the *Tigris*, which should have supply’d
 ‘ his Army with Provisions, and rashly pursuing irrational Designs, was deservedly
 ‘ cut off in the Enemies Country.

Providence
 of King-
 doms and
 Empires.

Now I would fain have our *Jacobites* tell me, whether the same true God has abandon’d the Government of the World, and when he did so? Did he give the Empire of the World to *Nero*, to *Domitian*, to *Julian* the Apostate, all Usurpers, and some of them Murderers of their Predecessors, nay to *Marius*, who was the very Image of *Oliver Cromwel*; and has he not since that done any thing of that nature? Did not he that gave the Kingdom of *England* to King *James*, give it also to King *William*? Did not the Primitive Fathers submit to and pray for *Nero*, *Domitian* and *Julian*, tho Murderers and Usurpers, as well as to *Claudius*, *Titus* and *Constantius*? It is well known *Claudius* left a Son, whose Birth was never question’d, and that *Nero* was set up by the Intrigues of *Agrippina* his Mother: yet *St. Paul* own’d his Power to be of God, *Rom. 13*. For in that Prince’s Reign this Epistle was written, as Bishop *Pearson* proves in his *Annals of St. Paul*, pag. 19. but the Christians were few in number then. Well, but they were numerous enough in the second and third Century, but they were all of *St. Augustin*’s mind then too, and left God to dispose of the Kingdoms of the World as he thought fit. Now how did they know that he had given the Empire in their times to this or that Man, but by the Event? And was that sufficient to justify them in their acquiescing in, and submitting to the Will of God thus discover’d, and will not the same be sufficient for us too? Is not the same Providence as powerful and as vigilant in our times as in theirs?

For my part I was none of them that did, or durst have resisted or rebelled against King *James*: but when he chose rather to leave his Kingdom than to do his Subjects Right, it was just with God and Man to confirm the Election he had made; and seeing he would not continue in the Station God had plac’d him in (that of a Regular and Limited Monarchy) but aspir’d to an Absolute and Unlimited Arbitrary Empire, and persecuted those who had set him up and preserv’d him in his Throne; it was just, I say, that God should say unto him as he did to *Saul*, *Because thou hast rejected the word of the Lord, he hath rejected thee from being King*. Seeing you have provok’d and deserted your People, and have fled into a strange Country, when you might by observing your Oath and your Laws have liv’d happily in your own, you shall reap the fruit of your own Folly, and I will give it to a Neighbour of thine that is better than you.

Example
 of the Pri-
 mitive
 Christians.

Now I would fain know of my Countrymen, who are still dissatisfy’d, what I or any of the other Members of the Church of *England*, who never resisted K. *James* till he left us, have done more than the Primitive Christians did in the like Circumstances; and I would have them produce but one Example in all those times, of a Christian that did scruple to submit to, or pray for the Prince that was set over him, be his Title what it would. And when his hand is in, let him shew me the Christian that desir’d the Restitution of *Dioclesian* or *Licinius* (a), two persecuting Princes, who were as manifestly laid aside as King *James* was or could be; supposing he was purely forc’d, and that there was nothing of his Will in it, which yet were a very extravagant Supposition.

2. I come now to the second thing I propos’d to examine, Whether those who stand for the Non-resisting Doctrine, are by it bound to endeavour the Restitution of *James* the Second, now he had deserted the Throne, and withdrawn his Person and Seals?

I have in part anticipated this Enquiry in the former part, as it was impossible to do otherwise, by shewing that the Primitive Christians who own’d and practis’d this Doctrine to the highest, did yet never concern themselves for the Titles or Successions of their Princes, but submitted to those they found in the Throne, Good or Bad, by what Right, Title or Pretence soever they came in.

The only reason that can be given for this, is what I have assign’d out of *St. Augustin*, viz. That the Kingdoms of the World were so particularly under the Government of God, that no Person could usurp them without his particular Gift and Providence. They did not in this case make any difference between his Approbation and Permission: They knew and acknowledg’d this thing was manag’d in such manner, that it was impossible for Man sometimes, after the utmost search, to find

(a) *Lactantius de mortibus persecutorum. Euseb. H. E. lib. VIII. c. 13.*

out the reason of it; but yet they said also with St. *Augustin*, *God could approve nothing but what was just*, and in this be sure nothing could happen but what he approv'd; no Force, no Fraud ever prevail'd against any Prince that was in possession, but by the Will and Approbation of God Almighty.

The only Objection that can be made against this, is, That this will seem to make God the Author or Approver of the ill things that have been done to good Princes in the several Ages of the World. To which I reply, That God has very great Reason and Justice in all his Actions, tho it is not always known to Men. The best of Men have been guilty of great Offences, some of which have not been known to Men in general, and others that were known have not been committed to writing, and are lost; but when all things shall in the last day be discover'd, then it will appear, that God was just in all his Ways, and righteous in all his Works.

God's Providence vindicated.

And tho God has pleas'd to settle the Kingdoms of the World in certain Families and Persons as he thought fit, yet he has not thereby bound up his own hands so, that let them do what they please, every Person that is by his Providence exalted to a Throne, must necessarily reign till his Death, and shall then be succeeded by none but his next right Heir. God never made a personal Promise to any Family, but that of *David*; and after that to *Jehu*: but in the Family of *David* (as the Promise was in part conditional) there were many false steps and aberrations from the true Rules of an hereditary Succession; and for the Sins of *Solomon*, God rent ten of the Tribes out of the hand of *Rehoboam* his Son, which never after return'd under the House of *David*: and tho this is stiled a Rebellion, yet God owns that this thing was from him, 1 King. 12. 24. and the Family of *Jehu* ended in the fourth descent, as it was foretold.

Now put these two together, that there is a particular Providence, that particularly concerns it self in the disposing of Crowns, against which neither Fraud nor Force can prevail: And that God has an absolute Right, as well as full Power to dispose of the Kingdoms of the World as he pleases; and accordingly has in every Age of the World, *de facto*, dispos'd of them: and the Conclusion will be, that whosoever ascends a Throne, and reigns in any Kingdom, doth it by the Will and Appointment of God. And in this no wrong is done by God, for he may dispose of what is his own, when and how he pleases: All Princes are God's Ministers and Deputies, and when he pleases he may lay them aside, and set up others in their stead.

And this in general is true of all Princes God and Bad; but as to the latter, to what purpose are Prayers and Tears stil'd, The Arms of the Church against persecuting Princes, if they were of no force? To what purpose should Men cry unto the Lord because of their King, if he were resolv'd never to hear them; or which is all one, never to help them? And the Difficulty is the same yet, if I may not accept of a Deliverance when it comes. Why, if God be pleas'd to put an end to the Life of an ill Prince, and to set up the next immediate Successor, then I may say I am deliver'd. But when did God oblige himself to this, That he would exercise this his most Sovereign Jurisdiction over Princes only one way, and that every Prince should be succeeded by none but his next immediate Heir? Where has he oblig'd us to accept of no other Deliverance, and to reject all other Successors but those that we took to be the right, with the loss of our Lives and Fortunes? Did the Primitive Fathers of the Church act or write thus, or how come we to be under other Laws than they were?

If *James II.* govern'd us as he ought, according to his Laws and his Oath, we are bound in gratitude to desire the continuance of his Government, and to be much concern'd that we are not still under his Scepter, for he was once the undoubted rightful King of *England*: But if it was otherwise, if he persecuted that Church he promis'd and was bound to protect, and did not treat us like *Englishmen* but like Slaves, what reason have we to desire, now we are deliver'd, to be again brought into the same Circumstances we so lately groan'd under? *Nero*, *Domitian* and *Decius*, the three first Persecutors of the Christian Church, all of them perish'd by the Sword; but *Valerian* the fourth, as he is reckon'd by *Lactantius*, did not escape neither: *At illum Deus novo ac singulari pœnæ genere adfecit, ut esset posteris documentum adversarios Dei sæpe dignam scelere suo recipere mercedem*: God took a new course with him, and inflicted upon him a new kind of Punishment, that he might teach Posterity, that the Enemies of God do often meet with a Recompence worthy of their Wickedness; for he being taken Prisoner by the Persians, lost not only his Sovereignty, which he had most insolently abus'd, but his Liberty also, which he had depriv'd others unjustly of;

Being once deliver'd from Slavery, we ought not to endeavour a Return of it.

and be continu'd in wretched Servitude to the day of his Death, not only destitute of Help or Pity, but scorn'd and trodden upon by his proud Enemy. Did the Christians of this Age petition for their old Persecutor, did they refuse to be under the milder Government of his Son Gallienus (a), because the Father was still living, tho in Captivity? No, he tells us, that this was added to his Punishment; that tho he had a Son who succeeded in the Empire, yet there was no Revenger of his Captivity and Slavery; *nec omnino repetitus est*, nor was he in the least over-demanded or desir'd.

Next after him arose (b) Aurelian, a mad and rash Prince, who was cut off in the beginning of his Rage. After him came (c) Dioclesian, who was hardly persuaded to begin a Persecution, but rag'd more than any of his Predecessors: soon after he fell into a Sickness, and was thought by the Violence of it to have been dead; but tho he escap'd with his Life, he was a long time distracted, and was forc'd by Galerius Imperio *cedere*, to resign the Empire in the year 305 (d); and altho he liv'd to the year 313, which was nine years after he was depos'd, none of the Christians of that Age desir'd he should again ascend the Throne.

One of the last of the Pagan Princes that persecuted the Church was Licinus, upon whom Constantine made War for that very Cause, and reduc'd him to a private Life in Thrace, in the year 324; and in the year 325 put him to death, for endeavouring to recover his Throne. But neither here did the Christians that were his Subjects, desire again to be under their Pagan persecuting Prince, rather than under their Deliverer Constantine.

Julian the
Apostate
his Fate.

Julian the Apostate was the last Pagan Prince that reign'd in the Roman Empire, and he perish'd in Persia by an unknown hand, within two Years and one Month; and was follow'd, both living and dead, with the Detestation of that and all the succeeding Ages. St. Ambrose, as he is cited by (e) Grotius *de jure belli & pacis*, saith: This Apostate had many Christian Soldiers under him, who when he commanded them to stand to their Arms against the Common Enemy of their Country, obey'd him; but when he commanded them to fight against the Christians, then they acknowledg'd the Emperor of Heaven: That is, they refus'd to serve him in this. And the famous Theban Legion made this their Apology: We offer our Service against any Enemy, but we esteem it an Impiety to stain them with the Blood of innocent Men: You may command our Hands against the Wicked and your Enemies, but we cannot butcher the Pious and our Fellow-Subjects. We do well remember, that we took up Arms for, and not against our Countrymen; and we have ever fought for Justice, for Piety, and the Preservation of the Innocent: These things have hitherto been the Rewards of our Dangers. Shall we, O Sir! ever be able to keep our Faith and our Promise to you, if we now fail of performing our Promise to our God? They were then said to be led into France, to fight against the Bagaudæ, a sort of Outlawed Christians, who were forc'd, by the Iniquity of the times, to take up Arms under Dioclesian, and were all of them destroy'd by Maximianus: so that if that Story be true, it is a pregnant Testimony, that the Doctrine of Passive-Obedience doth not oblige any Man to lend his Assistance to the Ruin of the true Religion.

Besides these Pagan Princes, there were some Arian (f) Princes, who treated the Catholicks of their times very hardly; and tho none of the Christians of those times rebel'd against them, yet neither would the Catholicks assist the Arian Princes against the Catholick Bishops, as is plain in the Story of St. Ambrose, and the many Tumults at Constantinople, Antioch and Alexandria in those times; and when these Princes fell by the Justice of God, in Civil or Foreign Wars, their Ends were look'd upon as deserv'd. Thus Valens perish'd in Thrace, and Valentinian the younger at Vienna, the one by the hands of the Goths, and the other by the Procurement of Arbogastes an Usurper; and the untimely Deaths of these two Princes prov'd the Exaltation of Theodosius, the Resettler of the Catholick Religion, and the Extirpator of Arianism in the Roman Empire.

In all the various Events of these times, the Providence of God order'd things for the good of his Church, and the Christians of those times left them to his Disposal, and submitted to those he set over them quietly, and without disputing

(a) Euseb. l. 7. c. 13. *missis literis persecutionem adversus nostros commotam sedavit.*

(b) Euseb. H. E. l. 7. c. 30. p. 231.

(c) Euseb. l. 8. c. 13. *Lactantius de mortibus Persecut.*

(d) Jacinus & Chronicon Alexandrinum say, he liv'd to the year 316.

(e) Lib. 1. cap. 1. §. 9.

(f) Socratis H. Eccl. lib. 2. cap. 12, 13, 27.

their Rights or Titles; whereas *Procopius*, who claim'd the Empire as Cousin to *Julian* the Emperor, perish'd in the Attempt, without pity or the regard of the Church.

There is no part of the Reign of *James II.* that has not been examin'd and re-
presented by many Pens; so that it were a needless, but an ungrateful Task for me, to rip it up again: it may suffice to say in general, never any of our Princes so openly attempted the ruin of the *English* Liberties, or went so far in it; never did any Man more openly endeavour the Ruin of an Establish'd Religion, or by more illegal Courses than he; nor Laws, nor Oaths, nor Promises, nor Gratitude could restrain him; he broke thro all the Barriers God and Man had put in his way, and seem'd resolv'd to ruin us or himself: no Remonstrances from abroad, no Petitions at home could work upon him, till he saw the Sword coming to cut up the *Gourd* he had planted, and was so fond of; then indeed he seem'd to relent and to give back, but still he would be trusted; he would yield up nothing, but so as that he might, when the Danger was over, re-assume the same again. An *English* Parliament was the thing in the World he most hated, because he foresaw, if it was free, there was an end for ever of the hopes of setting up Popery in this Kingdom, and that was his main and almost only Design; and yet, as fond as he ever seem'd to be of an absolute and uncontrollable Power, if he had been of our Church, he would not have hazarded all for it, but would have manag'd things with some Reserve: but the Jesuits he took into his Bosom, and his Queen especially, spur'd him on; and put him upon these Courses, only by representing to him the Glory and Merit of extirpating the Northern Heresies, and settling the Catholick Religion in *England*.

K. J. his Attempts to ruin the Liberties of the People of England.

Well, but what has he done since he left us, that may give us any Assurance we were mistaken as to what was past, or may hope for better Usage for time to come? Why, there have been some general Promises made. In the Letter, pretended to be sent to the Lords and Commons of *England*, and afterwards printed in *London*, he, or some other Person for him, tells us: *We are resolv'd, nothing shall be omitted on our part (whenever we can with Safety return) that can contribute towards the Redress of all former Errors, or present Disorders, or add to the securing of the Protestant Religion, or the Property of every individual Subject; intending to refer the whole to a Parliament legally called, freely elected and held without Constraint; wherein we shall not only have a particular regard to the Church of England as by Law Establish'd, but also give such Indulgence to Dissenters as our People shall have no reason to be jealous of; not expecting, for the future, any other Favour to those of Our own Persuasion, than the exercise of their Religion in their own private Families.*

This Letter bears date at *S. Germans en Laye*, Feb. 3. 1688.

The Letter to the Convention of *Scotland* runs in a higher strain.

WE think fit to let you know, That We have at all times rely'd upon the Faithfulness and Affection of you Our antient People so much, that in Our greatest Misfortunes heretofore, We had recourse to your Assistance, and that with good Success to Our Affairs: so now again, We require of you to support Our Royal Interest, expecting from you what becomes Loyal Faithful Subjects, generous and honest Men, that will neither suffer your selves to be cajol'd, nor frighted into any Action misbecoming true-hearted Scotchmen; and that to support the Honour of the Nation, you will condemn the base Example of Disloyal Men, and eternize your Names by a Loyalty sutable to the many Professions you have made to Us: In doing whereof you shall chuse the safest part, since thereby you will evite the Danger you must needs undergo, the Infamy and Disgrace you must bring upon your selves in this World, and the Condemnation due to the Rebellious in the next; and you will likewise have the Opportunity to secure to your selves and your Posterity the Gracious Promises We have so oft made of securing your Religion, Laws, Properties, Liberties and Rights, which We are still resolv'd to perform, as soon as is possible for Us to meet you safely in a Parliament of our antient Kingdom. In the mean time, fear not to declare for Us, your Lawful Sovereign; who will not fail on our Parts, to give you such a speedy and powerful Assistance, as shall not only enable you to defend your selves from any Foreign Attempt, but put you in a condition to assert Our Right against Our Enemies, who have depress'd the same by the blackest of Usurpations, the most unjust, as well as the most unnatural of all Attempts; which the Almighty God may for a time permit, and let the Wicked prosper, yet then must bring Confusion on such Workers of Iniquity. We further let you know, that We will pardon all such as shall return to their Duty before

K. J. his Letter to the Convention in Scotland.

before the last Day of this Month inclusive, and that We will punish with the rigor of Our Laws, all such as shall stand out in Rebellion against Us or Our Authority.

Given on Board the *St. Michael*, March 1. 1689.

A Jesuit who printed a small Paper, under the Title of *Advices given to his R. H. M. the Prince of Orange*, by one of his most faithful Servants, saith: Your Emissaries made use of the Mantle of Religion, to create in the Minds of the People (of England) false Impressions of the Designs of the King their Master; whilst they who knew the bottom of the Business (the Jesuits) and his true Intentions as well as you, are fully persuaded, That this is a good Prince, who desireth nothing but to pass the remainder of his Life in Peace; and who would be well-contented to obtain from his Parliament the free Exercise of his own Religion, without giving the least Disturbance to that which the greater part of his Subjects profess. It is not possible for you to take too much care to binder this Truth from spreading it self among the People, &c.

Thus the late King promiseth and threatneth, and the true-hearted Jesuit, who would not for the World speak one tittle of Untruth to a Heretick of the first Magnitude, voucheth for him, and would make the whole Society, that Holy Society which has so great an Influence over the Mind and Actions of that good Prince, Guarantee for the performance of all these fine things. Nay, I will undertake, if the English Hereticks will once more put their Heads into the Yoke, that Lewis the Fourteenth too shall pass his Royal Word and unquestionable Faith, that James the Second shall, for the future, keep his Faith with them, in spite of all the Canons of the Church of Rome to the contrary, as well as he himself has his to his own Protestant Subjects.

Cruelty
us'd in Ire-
land, not-
withstand-
ing the
Pardon
promis'd.

The Letter to the Convention of Scotland was dated on Board the *St. Michael*, a French Ship, then in the Road of Brest; and the late King was then passing in her into Ireland, where he arriv'd the 12th of March at Kinsale, with twelve French Men of War, three Fire-ships and eight Merchant-ships. Now, notwithstanding the King's Promise of Pardon to those of Brandon, several were indicted at the Assizes, insomuch that thirty or forty of them fled and came to Bristol; being frighted at the bloody Proceedings against one Mr. Brown of Cork, who was hang'd, drawn and quarter'd at the same Assizes. Several Petitions were also prefer'd for the Pardons of Sir Thomas Southwel and Captain Mills, and many others, who being taken in their way to the North, were carry'd to Galloway, and there try'd and condemn'd to die; but the King rejected their Petitions, but however repriev'd them for three Weeks, deferring it till his Arrival at Dublin, to which place he set forward on the 21st of March.

Nor was the rest of his Proceedings in that miserable Kingdom unlike this beginning, all the English being plunder'd of all their Horses and Arms first, then of their Cattle and Household-stuff, and at last of their very Clothes, that they might be reduc'd to a necessity of perishing by Hunger, Nakedness and Want; and great numbers of them destroy'd by pretended legal Proceedings, because they would not at first Summons open their Doors, and suffer the Rabble to plunder them of all they had; which I have had from some of my near Relations who fled on that account.

Proceedings
in Ireland.

The twenty fifth of March a Proclamation was issu'd by him for the sitting of a Parliament the 7th of May at Dublin, as it accordingly did: wherein they pass'd these Acts.

- I. An Act to levy 20000 l. a Month for 13 Months.
- II. For repealing the Act of Settlement, and restoring old Proprietors.
- III. For Liberty of Conscience.
- IV. For taking off Penal Laws and Oaths.
- V. For taking off all Writs of Error and Appeals to England.
- VI. For taking off Valuation-mony, and other Rights from the Clergy.
- VII. For repealing the Act of the 23d of Octob. 1641.
- VIII. No benefit of Clergy for two years.
- IX. All Patents for Offices void.
- X. Ireland to be independent of England.

They seiz'd in the mean time all the Protestant Estates who fled into England, and all this they effected by the 26th of June.

1. After this they pass'd an Act for repealing Poyning's Law.
2. Against counterfeiting foreign Coins.
3. And an Act for the attainting of many hundreds of the Nobility and Gentry of Ireland, who were fled to England.

But the Town of London-Derry holding out, and an Army being every day expected from England, the 18th of July this Parliament was prorogu'd till October: And notwithstanding their Act for Liberty of Conscience, and the dreadful expectation of a sudden Revenge from England, the Popish Clergy took possession of the Tithes and Church Revenues, and many of the Protestant Clergy were clapt up in Prison, in order to be sent into France.

All that our discontented Party here in England have to say to all this, is, That we must not believe all that is told us out of Ireland; but they mean, that we must believe nothing of it, but call in King James, and try if he will use us at the same rate.

We have a Proverb, *That Experience is the Mistress of Fools*; and certainly none but such will come a second time under her Discipline, when they have so lately tried it, and see every day hundreds of the Nobility, Gentry and Clergy of Ireland flee hither to save their Lives, with the loss of all besides, who agree very exactly one with another in these dreadful Stories.

Not safe to trust K. J. a second time.

Now let it be consider'd, that nothing was ask'd by the Bishops in their Proposals, and by the Lords Spiritual and Temporal in their Petition of the 17th of Nov. but a free and legal Parliament, and the redress of our Grievances; and that this was the principal thing insisted on by the Prince of Orange in his Declaration, viz. That a free and legal Parliament might settle and adjust all things in difference or dispute; and that it was obstinately refus'd till the 28th of that Month, and then granted when it could be no longer deny'd, the greatest part of the Nobility and Army being then gone over to the Prince.

Let also that Passage in the Proclamation of the 30th of Novemb. be consider'd. *For the reconciling all publick Breaches and obliterating the very Memory of all past Mis-carriages, we do hereby exhort and kindly admonish all our Subjects, to dispose themselves to elect such Persons for their Representatives in Parliament, as may not be bias'd by Prejudice or Passion, but qualify'd with Parts, Experience and Prudence proper for this Con-juncture, and agreeable to the Ends and Purposes of this our Gracious Proclamation.* And after this, that by his Message of the 8th of Decemb. sent by the three Lords to the Prince of Orange, he promis'd, *That he would consent to every thing that could be reasonably requir'd for the security of those that came to it; that is, to the Parliament.* And that the 10th of Decemb. he sent for the Lord Mayor and Aldermen and Sheriffs of London to Whitehall, and again pass'd his Word to them, that tho the Queen and Child were gone for France, *He would stay with them.* And tho this Evening he receiv'd such an Answer from the Prince to his Proposals, that he could not but acknowledg, *It was fairer than he could or did expect:* yet after all these solemn Engagements he burnt the Writs for summoning a Parliament, and went the very next Morning away for France, as his Roman Catholick Friends foretold he would above a fortnight before; and who accordingly sent a Letter to him whilst he was at Salisbury, persuading him to come back from thence, and withdraw himself out of the Kingdom, and leave it in Confusion; assuring him, that within two years or less the Nation would be in such Disorder, that he might come back and have his Ends of it; that is, ruin both our Civil Rights and our Religion.

When all these solemn Promises were thus easily broken, or rather never intend-ed to be kept at the very time they were made, and all those he has since made have been violated in Ireland, where only he had power to keep or break his word; what can we conclude, but that, as a Minister of State told our Planters, *It is very un-decent, not to say undutiful, to tax (this) King with his Promises;* who of all Man-kind has shewn the least regard in time past to them, and for time to come can never be blam'd for any breach? the Parties that take his word being alone responsible for their incorrigible Folly.

No Promi-ses kept.

Some of these Men have confess'd to me, That if ever he be restor'd, they expect to be treated as they were before (without Truth, Justice or Mercy) but yet if it be his Right, he must have it. And they cannot think his Right can be determin'd but by Death or a voluntary Surrender, or a Conquest made by mere Foreigners, to the utter Ruin of the English Nation. And they will admit of no Answer to these their Scruples, but what shall be palpable, convictive to that degree that they can make

make no Objection against it. Now if they admit all the dreadful consequences that attend this relapse, and yield up both Church and Nation to certain and inevitable ruin, only that they may not be damn'd for Perjury and Disobedience to a King that has left them when he might have stay'd, and now offereth to return and do what he then refus'd; what shall we also consent and sacrifice our selves and our Posterity to the humour or scruples of these Men? Shall we suffer the *English Church*, Liberties, and the very People of *England* to be destroy'd, to gratify two or three hundred Persons? I have been told from good hands, that one of our Bishops said, *Tho he could not satisfy his own Scruples, yet he thought the English Nation fools if ever they suffer'd King James to return*; and I may from hence reasonably conclude the far greatest part of our Scruplers are satisfied in the main, and do heartily wish they could also be of the same mind with the rest of their Brethren in the rest; so that the Cause is half obtain'd against them, and those that shall finally persist will, I fear, not meet with much Compassion, it being scarce possible there should not be a very great deal of Will in so much blindness.

Bishop Ken.

Ingrati-
tude for
Delive-
rance unac-
countable.

Our Neighbours abroad have observ'd with wonder, (a) *That England was delivered from an Arbitrary Government, which threaten'd the Ruin and Desolation of the whole Nation, and the Destruction of our Religion, without the shedding any of our Blood; and that the Army of our Deliverer has committed no Disorder or Rapine in any of our Places thro which it passed.* Now one would think the manner of our Deliverance were a Mercy almost equal to the Deliverance: No, they cry, if King *William* the Third had enter'd *England* as *William* the First did, and had slain fifty or sixty thousand *English* Men in a Battel, then it had been a true Conquest, and would have justified our submission, and God would not have been offended with us if we had transferred our Allegiance from the beaten *James* to the victorious King *William*. Now if men were like Beasts, altogether destitute of the use of Reason, and capable of no Reflection but the terror of a brandish'd and irresistible Sword, then there might perhaps be some force in this Reason: but if a man is conquer'd whenever he is brought to submit to another, the noblest as well as the most effectual Conquest is that of the Pen: Swords conquer Bodies only; Reason and Interest, Justice and Mercy, subdue Souls too, and at once bring the whole man under; whereas Brutish force can triumph over none but the brutish half of a man. A Lion or a Wolf may master my Body and bring me under his power, so that I neither can nor durst resist him; but none but a Hero can bring me to a willing Submission when I am free, none but a Hero would with his own hazard deliver me from Slavery when I were oppress'd. St. Peter saith, *ὅς τις ὑπὸ τῆς ἰσχύος αὐτοῦ καὶ δεδούλωται; By whom a man is overcome, him he must serve; that is, he cannot resist him*: and it is as true, *he whom I neither can nor durst resist, has conquer'd me.* When *James* the Second was desir'd to leave *White-hall* and go to *Ham*, and sent to his now Majesty for leave to go rather to *Rocheſter* than to any other place; it was a plain Confession he was no longer Free, i. e. that he was brought into bondage, and consequently that he was conquer'd; if Conquest be nothing but the depriving a Man of the Power of resisting, as I take it to be; and that Servitude or Bondage is nothing but the effect of that deprivation. And in his Letter from *Rocheſter* he saith, *He did not think it convenient to expose himself to be secur'd so as not to be at liberty to effect it (to redeem the Nation from Slavery) and for that reason to withdraw, &c.* That is, he left *England*, because as long as he stay'd in it he was a Captive, and liable to be secured; and by consequence he was conquer'd. The Roman Catholicks too, and those few of the Church of *England* who still adhere to him, were conquer'd by force of Arms; for they durst not resist, nay they durst not print the Reasons why they will not comply, which is a plain Confession they are subd'd. The rest of the Nation too was conquer'd not by the Sword, but by the Justice of his Arms, and his Kindness to a miserable enslav'd People design'd for ruin. And after all this, to query whether it is a real Conquest, is very absurd.

Every
Conquest no
good Title.

But every Conquest will perhaps not create a just and good Title: but here it is confessed the present King had the most just cause to make a War upon *James* the Second, that ever man had, by them who scruple to submit to him; he manag'd this War also with the utmost Justice, he did not enter into it till he had tried all other ways to obtain Justice, and was denied it and persecuted to boot; he offer'd to submit all his pretences to an *English* Parliament: and when that was

(a) *Le vrai Interet des Princes Chretiens*, p. 176.

rejected, he managed the War with so exact a discipline, with so little injury to the rest of the Nation, that the want of the effects of War, Blood and Rapine, is objected against his Victory.

Every man has not the Right of making a Conquest: a Subject that rebels against his Prince is but a victorious Traitor if he prevail; but *William* the Third was a Sovereign Prince when he enter'd *England*, and by the Law of Nations had a right to vindicate his and his Lady's Injuries, and obtain by the Sword what he could not get by a fair Treaty.

But to what end is War allow'd at all, if the Cause and the Effect must be separated, and the most just War in the end leave the Conqueror in the same state he was before? No, but all Subjects, right or wrong, are bound to stand by their Lawful Princes in their most unjust Quarrels: and if at last they are subdu'd, their Allegiance must be reserved for the injurious beaten Prince till he die or freely resign; that is, a victorious Sovereign Prince and a prosperous Rebel, and a just and an unjust War, shall, according to these mens Notion, have the same effect.

Evagrius, in his Apology for the Christian Religion against *Zozimus* the Pagan Historian, thus bespeaks him: (a) 'Let us, if you please Sir, consider the ends of those Princes who imbrac'd the Pagan Superstition, and the Deaths of those Princes that were Christians. Did not *Caius Julius Caesar*, the first of them that obtain'd the Empire of *Rome*, perish by Treachery? and was not *Caius Caligula* murder'd by his own Soldiers? Was not *Nero* slain by one of his own Servants? Did not *Galba*, *Otho* and *Vitellius* all perish by the Sword in the space of sixteen months? Did not *Domitian* poison his brother *Titus*, and then he himself fall by the Sword of one *Stephanus*? What will you say of *Commodus*? Did not *Narcissus* lay violent hands upon him? And did not *Pertinax* and *Julian* fall by the same means? *Antoninus*, the Son of *Severus*, slew *Geta* his Brother, and soon after fell by the Sword of *Martialis* himself. Was not *Macrinus* the Emperor taken captive by his own Soldiers, and being led about the Streets of *Byzantium* afterwards, was he not most traitorously slain by them? *Aurelius Antoninus* the Emperor, who was born at *Emisa*, a City of *Syria*, was slain with his Mother. To what end should I speak of *Maximinus*, who was slain by his own Soldiers? of *Gordian*, who fell by the Swords of his too, who were stirred up to it by *Philip*? And were not *Philip* and *Decius* both slain by their Foreign Enemies, *Gallus* and *Volusianus* by their own Armies? And had not *Emilian* the same Fate? Was not *Valerian* taken prisoner, and carried about by the *Persians* till he died? Was not *Galienus*, the Son of *Valerian*, slain by Treachery, and *Carinus* beheaded, and so the Empire fell into the hands of *Dioclesian* and those he associated to him in the Empire; of which *Maximianus Herculus*, and his Son *Maxentius*, and *Licinius* all fell by the Sword? But from the time *Constantine*, a Christian Prince, became Emperor, to this, see if you can find any one who has reign'd in *Constantinople*, except *Julian* the Apostate and *Valens* the Emperor, who have fallen by the hands of their own Subjects or of Foreigners, who both so grievously afflicted the Christians; nor has any Tyrant usurp'd against any of our Princes except *Basiliscus*, who rose up against *Zeno* the Emperor, and drove him from his Palace, but was afterwards overcome by *Zeno* and put to death. You cannot assign any other Emperor, but these two, that was slain in all this time. This happened in the Year of Christ 476. and *Licinius* was put to death in the Year 325. So that in the space of 151 Years no Christian Prince had been depos'd or murder'd by domestick or foreign Enemies in the East: and whereas, I observed before, in the latter times of the Pagan Superstition, in the space of 110 Years, there were twenty nine Emperors; in this period, which makes 151 Years, there were but twelve, of which number *Julian* and *Valens* were cut off by the Justice of God for persecuting his Church. Now the force of all this Argument lies in this (b), that the Providence of God watcheth over pious Princes to preserve them from Violence: and as he suffereth not persecuting Princes to end their days in Peace, he looks graciously upon his Servants, to preserve their Souls from Violence and Wrong, because they are such. But if it is said he has suffer'd some good Princes to be oppressed, as he did *Henry* the Sixth and *Charles* the First; I say, the Judgments of God are sometimes inscrutable, and those that have any hand in such Actions, shall doubtless be responsible for it. But as for those who are merely passive, as they could not hinder the ill

Ill Princes
commonly
have had
fatal Ends.

(a) *Hist. Eccl. lib. 3. cap. 41.*
Vol. I.

(b) See the first Collect for the 5th of November.

things that happen'd in their times, they may and ought to commit them to God; who in his due time will punish all unjust Usurpers, either in their Persons or in their Posterity.

Thuanus
Ann. 1559.
Christian
II. of Den-
mark why
depos'd.

But then this new Doctrine of standing by wicked persecuting Princes, to the apparent and visible Ruin of the Church, or at least of those that imbrace it, was never heard of in the Church before, was never taught or practised by the primitive Christians; and is not any part of the Doctrine of Passive Obedience or Non-resistance. As they would not rebel against their Princes, how wicked or cruel soever they were; so neither would they against God, whose only Right it is to dispose of the Kingdoms of the World; without whose Approbation as well as Permission, no Force ever did or ever shall prevail; who when he pleases punisheth the Wicked, and when he pleaseth pulls down not only unjust Usurpers, but those who have the justest Title. The great *Thuanus* makes this Reflection on the Deposition of *Christian the Second, King of Denmark*: If Princes will reign well and happily, they must govern their Affections, and not out of a violent lust of insulting over their Subjects give up themselves to the Conduct of their Passions; or otherwise they ought to assure themselves, God is a severe revenger, always ready and delighting to pluck off their Thrones the most Proud and Insolent, who shall abuse that Power he has intrusted them with. Nor is this less true of lawful Princes than of unlawful Usurpers, no Title can exempt a Prince from being responsible to the Justice of God, and he will use his Power as he thinks fit, and punish one man after one manner, and another in another; some in this World, and others in the next; and the Church in the best of times accordingly left it to him to dispose of the Government of the World: And as she did not anticipate his Judgments by disturbing the Peace of the World, whatsoever she suffer'd; so neither did she think her self more wise or just than he, but submitted to those he was pleas'd in his Providence to set over her; and would certainly have been very thankful for such a Deliverance as we of the Church of *England* have had, by the Ministry of our King, who like another *Constantine* has deliver'd us out of the hands of our Enemies, who design'd to enslave and ruin us and our Posterity for ever.

Rom. 13.
All Power
ordain'd of
God.

The primitive Church in the best times took the words of *St. Paul* in their plain and literal sense, Αἱ ἐξουσίαι, ἑξουσίαι, καὶ τὸ θεὸς ταῦτα γράμματα εἰσὶν: The Powers that are (i. e. in Possession) are ordain'd or order'd of God. They never formalize or make any Exception, but Conquest, Election, Usurpation, were to them all alike, if once the Man was establish'd in the Throne; and therefore they so frequently affirm, Empires are given by God, according to that of *Tertullian*, *Apolog. cap. 30.* We invoke, for the Preservation of the Emperors, the Eternal, True, Living God, Him whom the Emperors themselves would wish propitious above all others, for they know who gave them the Empire (they know it as Men) and who gave them their Breath; they feelingly know that he is the only God in whose Power they only are, &c. There is no Power but that of God that can touch the Person, the Power or the Life of any Prince. Thus *Sozomen* in his *Ecclesiast. History*, lib. 6. c. 35. reprehends the Vanity of the Pagan Philosophers, who had been too inquisitive to find who should succeed *Valens*; and the over-great Severity of that Prince in executing many who had no hand in it, because their Names began with the Letters pretended to be discover'd. If (saith he) these things are once agreed to depend (ἐν τῇ τῆς ἀστρον. πορᾷ) on the Motion or Course of the Stars, we ought to expect (τὸν ἐσόμενον) the Prince that is thus decreed for us, whosoever it is: But if these things are order'd by the Counsel of God, why do Men pry curiously into them? for the Foresight or Endeavours of Men can never find out the Will of God. And if it were possible, it is not fit to be done, because the wisest of Men cannot order them (the Succession of Princes) better than God. The antient Fathers and primitive Christians do every where ascribe the setting up and pulling down of Princes to God only, as they do Rain and other such things; and you shall never find any Exception of lawful or unlawful Powers, that were supreme in fact, in the Writings of the first Ages. To this purpose see that Passage of *St. Augustin de Civitate Dei*, lib. 5. c. 21. cited above.

King in
possession
his Power.

Some have alledg'd in answer to this, That we in *England* are under other Circumstances than the Primitive Church were, both in relation to our Laws and our Oaths: For the Law, *Sir Edward Coke* in his Pleas of the Crown, Chap. 1. p. 7. saith upon the 25 E. 3. c. 2. This Statute is to be understood of a King in possession of the Crown and Kingdom; for if there be a King Regnant in possession of the Crown, altho he be *Rex de facto & non de jure*, yet he is *Seignior le Roy* within the Purview of this Statute; and the other that hath Right and is out of possession, is not within

within this Act. Nay, if Treason be committed against a King *de facto* & non *de jure*, and after the King *de jure* cometh to the Crown, he shall punish the Treason done to the King *de facto*. And a Pardon granted by a King *de jure*, that is not also *de facto*, is void; for which he cites 11 H. 7. c. 1. 4 E. 4. 1. 1 Ed. 4. 1, 2.

The Words of the Statute are as followeth.

The King our Sovereign calling to his remembrance the Duty of Allegiance of his Subjects of this Realm, and that they by reason of the same are bound to serve their Prince and Sovereign Lord for the time being in his Wars, for the defence of Him and the Land against every Rebellion, Power and Might rear'd against him, and with him to enter and abide in service in Battel, if case so require; (2.) and that for the same Service what Fortune ever fall by chance in the same Battel against the mind and will of the Prince (as in this Land some time past hath been seen) that it is not reasonable, but against all Law, Reason, and good Conscience, that the said Subjects going with their Sovereign Lord in Wars, attending upon him in his Person, or being in other places by his Commandment within this Land or without, any thing should lose or forfeit for doing their true Duty and Service of Allegiance, &c.— That for the said Deed and true Duty of Allegiance he or they be in no wise convict or attaint of High Treason, ne of other Offences for that cause by Act of Parliament, or otherwise by any Process of Law, whereby he or any of them shall lose or forfeit Life, Lands, Tenements, &c. or any other things, but to be for that Deed and Service utterly discharged of any Vexation, Trouble or Loss. And if any Act or Acts or other Process of the Law hereafter thereupon for the same happen to be made contrary to this Ordinance, that then that Act or Acts or other Process of the Law, whatsoever they shall be, stand and be utterly void. (5.) Provided always that no Person or Persons shall take any Benefit or Advantage by this Act which shall hereafter decline from his or their said Allegiance.

11 H. 7. c. 1.

Which is to be understood of the King in being, as the rest is, and against the same King. To this Statute it is alledg'd, That the Title of the Crown was then so ambiguous and uncertain, that it was hard to know where the Right lay; which is a mere Cavil. The Title was as well known then as it is now, and is a thing of that nature, that it can never be universally known; but the greatest part of Mankind take those that are set over them, without further inquiry: nor is it reasonable any Man should suffer for obeying them whom he cannot nor ought to resist. So that what some have said, That every one is bound to take notice of the right Title at his peril, is true if the Person is in possession, but false if he is out of possession.

The Statute vindicated from Exceptions.

Conquest, a voluntary Surrender, and a wilful Desertion of a Crown, will put an end to the best-founded Title in the world, as I think is universally agreed; so that if the Party pretending has a Title, why is he not in Possession too? If he is ousted by his own Act, I am absolv'd; if by the Force and Power of another, why then he is conquer'd: and both ways (especially if I had no hand in it) I am and ought to be absolv'd before God and Man.

What is an end to the best Title.

But then not only the Three Estates of England, but all the Princes and Sovereign States in Christendom (except the King of France) have allow'd King William and Queen Mary, as the rightful Sovereigns of England; which is a kind of giving Judgment against the late King, after hearing what has been alledg'd on both sides. So that this Case is determin'd by all the ways that are possible, and must absolve any Man that submits now to that which is the only Supreme Power in England.

As to the Oaths taken to the late King, they create no new Obligation upon us as to the extent or duration of our Allegiance: I was under the same Obligations of Allegiance before I was sworn, as I was afterwards; and every Subject of England oweth by the Laws of England, a natural Allegiance to his Prince before he is sworn, as every Man owes naturally Obedience to God before he entreteth into the Baptismal Covenant. And so the Primitive Christians were under the same Obligation to their Princes we are, tho I do not find they ever swore any Allegiance to them.

Oaths to K. J. have no Obligation now.

2. This Allegiance is no everlasting Obligation as to time: Death, a voluntary Resignation, a wilful Desertion, or a lawful Conquest will put an end to it.

3. It is no (a) wild unlimited Obedience whilst it lasteth, but is plainly limited

(a) Magna Charta, c. 29. 2 E. 3. c. 8.

by the Laws of God and the Laws of the Land; and if I obey further actively, I am responsible to God and Man for it.

I come now to the Words of the Oaths, which may seem to create any Scruple; which in the Oath of Supremacy I suppose may be these. *I do promise that from henceforth I shall bear Faith and true Allegiance to the King's Highness, his Heirs and lawful Successors; and to my Power shall assist and defend all Jurisdictions, Privileges, Preheminences and Authorities granted or belonging to the King's Highness, his Heirs and Successors, or united and annexed to the Imperial Crown of this Realm.*

Where first I observe, no Man is bound beyond his Power, but that all those who stuck to the late King till he left the Nation and another took possession of his place, are thereby disabled and freed from attempting any further.

Secondly, That the Authorities I am to defend are such only as belong to the Crown of *England* by the Laws of *England*, which are to limit my Allegiance: but by the Law of *England* my Allegiance is now transfer'd to another, and cannot be due to two in opposition each to other; so that if I persist in my Allegiance to *James II.* I am punishable by these very Laws: therefore my Allegiance, which was a legal Allegiance, is determin'd.

That in the Oath of Allegiance, which may be objected, is this:

I will bear Faith and true Allegiance to his Majesty, his Heirs and Successors, and him and them will defend, to the uttermost of my Power, against all Conspiracies and Attempts whatsoever, which shall be made against his or their Persons, their Crown and Dignity, by reason or colour of any such Sentence, or otherwise, &c.

Oath of
Allegiance
vindicated.

Now this Oath, which binds us to the Person, as the other did to the Power, is capable of the same Limitation, and is to be limited both as to its Duration and Extent by the Laws of *England* and the Law of Nations; and therefore is determinable the same way the other was.

The Power and uttermost Power reserv'd and express'd in these Oaths is a legal Power, and therefore no Man is by these Oaths bound to exert his natural Power for any Prince, when he may by the Laws of *England* be punish'd as a Traitor for so doing; it being a Legal and not an Illegal Allegiance we promise by them.

If King *James* would have been contented with the Preheminences, Privileges, Authorities, and Jurisdictions granted and annex'd or belonging to the Crown of *England*, I believe no body questions but he had been still King of *England*; but by grasping at others which did not belong to him, he cut off his own Succours, and hindred those that otherwise would have defended him and them from doing it. He would not be content with those that belong'd to him, and they could not fight for or defend any other; and between these two his Power fell to the ground, by his own default: and his withdrawing put an end to his Sovereignty, and put our present King and Queen in the actual possession of all those legal Jurisdictions, Privileges, Preheminences and Authorities, which he was formerly vested with; and it is now the same Sin to resist them, as it was formerly to resist him.

There may possibly be some, who will lightly regard whatever I or any other Man of this Age can say to them; will they then vouchsafe to hear one of the most Noble and Royal Orators that ever spoke to Men, *Constantine the Great* in his Oration to the Holy Assembly.

Chap. 24. Of the calamitous Deaths of Decius, Valerian and Aurelian, three Emperors who persecuted the Church.

' (a) And now I ask thee, O *Decius*, who didst once insult over the Calamities
' of the Just, who didst hate the Church, who didst inflict such Punishments on those
' who liv'd most piously; what art thou doing in the other World? With what and
' how dreadful Circumstances art thou surrounded? Yea, the remainder of thy
' Life (after it) in this World, and the manner of thy Death shew thy Felicity,
' when thou and all thy Army fell in the *Scythian* Fields: And the celebrated Ro-
' man Empire by thy Fall became after this contemptible to the *Goths*. And thou,
' O *Valerian*, when thou didst enter into a bloody War against the Servants of
' God, hast thereby made his Justice known to Men; being taken Prisoner by the
' *Persians*, and kept in Chains in thy purple and Royal Robes. After which thou
' wert flea'd (being dead) by *Sapores* King of *Persia*, and thy Skin by his order

(a) *Constantini Oratio ad Sanctorum Cœtum.*

' tann'd and kept as an eternal Trophy of thy Misfortune. And thou, O *Aurelius*, the
' unjustest and most wicked Incendiary, how much hast thou discover'd his Justice,
' whilst madly invading *Thrace*, thou wert cut off in the Field, and didst defile the
' Furrows of the Publick Road with thy wicked Blood?

Chap. 25. Of *Dioclesian*, who basely resign'd the Empire, and was struck with
Lightning for persecuting the Church.

' *Dioclesian* also, after a wicked Slaughter and cruel Persecution, condemning
' himself, thro distraction was reduc'd to a private Life, and punish'd with the re-
' straint of a mean House. What did he get by his War against our God? Why,
' that he was ever after afraid of Thunder and Lightning. *Nicomedia* saith
' this, and they who saw it will not be silent; among whom I my self was one.
' The Palace was consum'd, and his very Chamber burnt with Fire from Heaven;
' and thereupon wise Men foretold what would follow, for they could not conceal
' their Thoughts, nor suppress their Resentments at the ill things were done; but
' openly and publickly with assurance said to one another, *What madness is this?*
' *What boasting in human Power for a Mortal to begin a War against God, and injuri-*
' *ously to affront the most chaste and holy Religion? and without any Cause or Provocation to*
' *contrive the Destruction of so many just Men, and of so numerous a People? What a*
' *famous Master and Teacher of Modesty to his Subjects will he appear? How rarely he*
' *teacheth his Soldiers to take care of their Countrymen? Why, they stab their Fellow-*
' *Subjects bravely, who in Fight never saw the back of a beaten Enemy.* At last the Pro-
' vidence of God undertook the avenging this Impiety, tho not without the pub-
' lick hurt; for so much Blood had been shed by him, that if he had slain as many
' of the *Barbarians* as he did of his own Subjects, we might have procur'd a long
' Peace by it. But the whole *Roman* Army being then in the hand of a mean-
' spirited Prince, who had acquir'd it by Force, his whole Army perished, when
' God was pleas'd to think fit to restore the *Romans* to their antient Liberty. The
' Voices of oppressed Men, who cry'd to God for Help under their Burdens, and begged the
' Return of their natural Liberty, are not forgotten, nor the Praises they return'd when they
' had regain'd it, and saw an end of their Calamities; did they not declare to all the World,
' how much they admir'd the singular Providence and paternal Love of God to Men, when their
' Liberty and the Equity of their Contracts was restor'd? That is, when they were de-
' liver'd out of the hands of perfidious Tyrants, and became subject to a Prince who
would keep his Faith and Promise to them.

They may be pleas'd to consider, how much of this was our Case; and ask their
Consciences, if the self-same Divine Justice and Providence has not appear'd in our
times also, and whether we have not as much reason as they to be pleas'd and
thankful.

Having thus dispatch'd what I think fit for the present to be offer'd to the Friends
of the late King, I come now to that part of the Nation, who being satisfi'd and
highly pleas'd with the present State of Affairs, may therefore be call'd in contra-
distinction the *Williamites*.

Many of these of late have appear'd very pertly against the Doctrine of Non-
resistance and Passive Obedience; and discours'd of it with Contempt and Scorn, as
if it were one of the worst and most exploded Doctrines in the whole World, and
full as Antichristian as that of deposing Kings and disposing of their Kingdoms.
Now these two being directly contrary each to other, in all probability one of them
is true. If we of the Church of *England* are not in the right with the Scriptures,
and all primitive Antiquity on our side, it is fairly probable, they of the Deposing
Church are: for their Claim is older than the Peoples. But the mischief is, the
Devil's is older than either; for he pretended to our Saviour, when he had shew'd
him all the Kingdoms of the World, and made a conditional Tender of them, *ἐμοὶ*
δοῦναι τὰς βασιλείας τῆς γῆς, ὅτι ἐὰν θέλω, δίδωμι αὐτῷ: All this Power and Glory is deliver'd into
my hands, and I give it to whomsoever I will. Now this was long before People or
Pope put in any Claim, and before the latter of these had any Being. The Pope,
it's true, claims under the People, but the Devil in his own Right: But I believe
neither of them can shew their Charter, tho the Devil claim'd by a Grant; and so I
shall leave him and them, Pope and all, in the intire possession of their several Rights,
if any they have.

The

Non-resistance how the Doctrine of the Primitive Christians.

The Doctrine of Non-resistance has been often prov'd the genuine Doctrine of the best Ages of the Church, and that so fully and clearly, that those who would not yield to the Force of the Proof, have not been able to deny the Truth of it, but have been forc'd to pretend it was only Temporary, and doth not oblige all Ages, which is hardly Sense; or that the Church is now in other Circumstances than she was then, which is not true neither: for in some places she is now under the same or worse Circumstances than she was in the three first Centuries, and consequently they at least are under the same Obligations the primitive Christians were; and therefore this very Doctrine is of eternal Verity, and will have its use till the end of the World. The Command is general, the Examples of it are general, and it is now confessedly necessary in *Turky*, and all Countries where Christianity is oppressed, and by consequence every where; except some body can shew we have one Gospel for the afflicted, and another for the prosperous days of the Church, or one Remedy, viz. that of Patience, was prescrib'd to our Ancestors, and another directly contrary to us; which if any Man can shew when and where it was done, I shall be very thankful.

Too far extended.

But it may be pretended it has been stretch'd too far, and that some of the Church of *England* have written too much in favour of wicked and Tyrannical Princes, even to the encouraging them to do worse than otherwise they would. To this I say, the Heat of Controversy has in other Instances misled Men as well as in this; and the Doctrine of Non-resistance is nevertheless true, tho their Notions of it should happen to prove too loose or too large. Let it then be fairly and truly stated once for all, and then let it be as it ever has been, the Glory of the Church of *England*, and the Bulwark of all religious Kings and States, against the Rage of mutinous and rebellious Spirits, who pretend to fight for God's Truth, against the Laws and Governments of their Countries.

If any Man thinks some of the things that were done in the heat of the late Revolution cannot be justified, without exploding this Doctrine: I say, those are the faults of a few Men, and better it is to leave them to their own Master, than to set up our selves against the Doctrines of Christianity to excuse them. The Men of our Generation have all the Infirmities that have gone along with those of the former; and being so highly provok'd by a handful of perfidious ungrateful Miscreants, what wonder is it if the Temptation, which was so strong, prevail'd over the Restraint, and made them guilty of some Irregularities, which according to the strict Rules of the Gospel, cannot be justified? Such things have happen'd in the best of the former Ages, and will happen again in those that shall follow us. But the Rule of Christianity ought to be preserv'd notwithstanding, and deliver'd down to our Posterity just as we receiv'd it.

Those that have appear'd against this Doctrine have done their Majesties two great Injuries.

Passive Obedience ridicul'd by some.

First, They have exasperated the dissatisfied Party in the Nation, and made them harder to be won over; they concluding that this Revolution was not the Work of God, because so many of those who have defended it, have made it their business to ridicule or confute the Doctrine of Passive Obedience, as if there were no other way than that to justify it. But then they are well assur'd this is as certain a Principle of the Christian Religion, and was ever practis'd by the Primitive Church in the five first Centuries; and from thence they conclude, the Men that do this, and all other that join with them, have made a defection from this Doctrine, and from the Church of *England*; and they think themselves bound in Conscience to oppose all those that are thus united, lest they should seem Betrayers of this Loyal, Holy, Excellent Doctrine, and of the Honour of that Church that hath ever taught it.

Secondly, They have depriv'd them, as much as in them lies, of that religious Awe and Reverence which is due to all crown'd Heads and Sovereign States. If they are the *Ministers of God*, if they are the *Powers ordain'd by God*, then is all Resistance of them a Sin against God. But these Men write as if it were lawful to resist when they pleas'd, and whom they pleas'd; which, if it is true, I am very confident it will not be long before they will pretend they have cause, or some other for them; and so all Princes shall be depriv'd of their best Safeguard, the Fear of God over-awing their Subjects, as the just Avenger of such as rebel against their rightful lawful Princes, and the Laws of their Country.

As there must be in every Country a Supreme Power lodg'd somewhere, against which there is no Appeal but to God, so that Power must be acknowledg'd to be Sacred and Irresistible, by the Laws of Christianity: and this is as true of Commonwealths as Monarchies, for wheresoever the Supreme Power is lodg'd, it is the Ordinance of God, approv'd by his Word, and settled by his Providence: *Whosoever then resisteth that Power, resisteth the Ordinance of God, and shall receive to himself Damnation.* He then that shall endeavour to destroy this Obligation, and to persuade Men they are not bound in Conscience to submit to the Laws and lawful Governours of their Country, contradicts this plain Doctrine of the Apostle, and exposeth the Supreme Powers in all Countries to the Rage and Fury of the Multitude, or any Faction that is potent, and thinks it self injur'd; and consequently he is an Enemy to all Government.

Supreme
Power must
be lodg'd
somewhere.

But then tho I am bound not to resist, I am not equally bound to assist, my hands may be tied both ways. If I live in a Pagan Country, where Christianity is persecuted by the Supreme Power, I must suffer, and ought not to resist; but then I am not to lend my Assistance to that State to encourage or enable it to destroy this Religion, but I must be merely passive in that case. And this was the case of *England*, we were persecuted against Law by a handful of Men, who expected to ruin us by our own hands; and we were bound not to assist them in this wicked and foolish Project; and for want of our Assistance they could not justify or carry on the Enterprize: and when they came to be call'd to an account by a Prince who was no Subject, and consequently was not under the Obligation of not resisting their Injustice and Oppression; they fell an easy Victim to his Arms, and we were deliver'd out of their hand, not by any Resistance we made, but by refusing to assist them: and they that went no farther than this (which it is certain the greatest part of the Nation did not) are justifiable by the strictest Rules of Christianity, and the Practice of the best Ages.

To conclude, I would advise even those who have no kindness for the Doctrine of Non-resistance to speak modestly of it; it has such Characters of Divinity to shew, that it will deserve this Respect at their hands, if they are Christians: And as to those that are not, those that despise all reveal'd Religion (for they of late have been very witty against it) they ought to shew some Reverence to it for the sake of Government, and to preserve the Peace of the World, in which that sort of Men have a greater Interest than others; for their All lies in this World, and they pretend to nothing in the next; and if the World be imbroid'd, let the Pretence be what it will, their Happiness must necessarily be very much abated, and perhaps their Machines destroy'd, and then there is an end of them.

Concludes
with Ad-
vice.

The

*The DOCTRINE of Passive Obedience
and Jure Divino disprov'd, and Obedience to the
present Government prov'd from Scripture, Law,
and Reason. Written for the Satisfaction of all those
who are dissatisfied at the present Government, by a
Lay-man of the Church of England.*

General
Positions.

GOD by no Word binds any People to this or that Form of Government, till they by their own Act bind themselves.

None ought to advance the Greatness of his Sovereign with the Publick Detriment.

The End of Magistracy is the Good of the whole Body, Head and Members conjunctly; but if we speak *divisim*, then the Good of the Society is the ultimate End, and next to that, as conducent to it, the Governour's Greatness and Prerogative.

The Measure of our Government is acknowledg'd to be by Law, and therefore the King cannot confer Authority on any beyond Law; so that those Agents deriving no Authority from him, are mere Instruments of his Will, unauthoriz'd Persons, in their assaults Robbers.

Law the
Measure of
Power ac-
cording to
K. Ch. I.

King *Charles* the First's Declaration at *Newmarket* 41, says, that the Law is the Measure of his Power.

There is no absolute Authority where there is no absolute Subjection due; and there can be no absolute Subjection due where there is no absolute Authority: no man wants Authority to defend his Life against him who has no Authority to take it away; but no man whatsoever has any just Authority (that is, any Authority at all) to take it away contrary to Law.

He that resists the Usurpations of Men, does not resist the Ordinance of God, which alone is forbidden to be resisted; but Acts of arbitrary and illegal Violence are the Usurpations of men, therefore may be resisted.

We are bound not to part with our Lives, but to defend them, unless when the Laws of God or our Country require us to lay them down.

Voluntary Slavery is a Sin against the Law of Nature, which no man in his right mind can be guilty of.

Self-defence never did any mischief in this World; and it is impossible that one man's righting himself can do another man wrong; the mischief that happens in that Case is wholly to be charg'd upon those that invade mens Lives and Liberties, and thereby put them upon a necessity of defending them.

Self-pre-
servation
every one's
Right.

Every man has the right of Self-preservation as intire under Civil Government, as he had in a State of Nature. Under what Government soever I live, I may still kill another man, when I have no other way to preserve my Life from unjust Violence by private hands: now the hands of subordinate Magistrates imploy'd in Acts of illegal Violence, are private hands, and arm'd with no manner of Authority at all; of which this is a most convincing proof, that they may be hang'd by Law for such Acts, for illegal Violence is no part of their Office; but no man can or ought to suffer for what he does by Authority.

What can be more contrary to Reason and the Government of the World, yea to the Goodness and Wisdom of Almighty God, than that some thousands or millions of People should be so subjected to the Power of one Man, of the same Infirmities with themselves, as in case he should command all their Throats to be cut, they are oblig'd under the pain of no less than Damnation (by a thing call'd Passive Obedience) to submit their Necks tamely to the blow?

Kings were made to govern and protect the People, not to destroy them; but I never heard that the People were made for Kings.

Ah,

Ah, but some do object, the Corporation Oath binds us to be Passive, the Design whereof I shall here inquire into, viz. This Oath was made quickly after the Restoration of King Charles the Second from an unnatural Rebellion; and a Popish King was not then thought of, King Charles the Second being as likely or likelier to live than the late King James. And can it be thought this Oath was made with any other design, than to prevent the like Rebellion for the future; that as soon as we were deliver'd from one unreasonable Tyranny and Oppression, we should run ourselves wilfully into another (which is so in effect, if this Oath is to be taken in the strictest sense) or at least stand to the Mercy of the Prince whether it shall be so or no? Can any Man be so ridiculous as to think, the Legislators design'd by this Oath to bind themselves and the Community to be so passive, that if the King endeavour'd to cut our Throats, or overthrow the Laws, Rights and Privileges of the Subject, and to bring in Popery and Slavery, we should stand still and let him? Let all the World judg whether it can with any reason be thought.

The Corporation Oath consider'd and vindicated.

If an absolute Monarch should degenerate into so monstrous and unnatural a Tyrant, as apparently to seek the Destruction of the whole Community, then such Community may negatively resist such Subversion; and if constrained to it, positively resist such Endeavours, and defend themselves by Force against any Instruments whatsoever for the effecting thereof. First, David did so when pursued by Saul, he made negative Resistance by flight; and doubtless if Negative would not have serv'd the turn, he intended, secondly, to make positive Resistance, else why did he strengthen himself by Forces, but by that Force of Arms to defend himself? If then he might do it for his particular Safety, much rather may it be done for the Publick, especially in a limited Monarchy.

Resistance ought not to be made against all illegal Proceedings, but such as are subversive and unsufferable, as when there is an Invasion actually made, or eminently fear'd by a Foreign Power; or when by an Intestine Faction the Laws and Frame of Government are secretly undermin'd or openly assaulted. In both these cases the Being of the Government being indanger'd, the Peoples Safety and Trust binds them, as well to assist the King in securing, as to secure it by themselves, the King refusing.

What illegal Actions are to be resisted.

A Monarch acting according to his Power, not exceeding the Authority which God and the Laws have confer'd on him, is no way to be oppos'd, either by all or any of his Subjects, but in Conscience to God's Ordinance obey'd. This is granted on all sides.

The Prince is bound to the Laws, on the Authority whereof his Authority depends, and to the Laws he ought to submit.

The End of a King is the general Good of his People; which he not performing, he is but the counterfeit of a King.

The Obligation of an Oath is dissolv'd by the cessation of the Matter of it, or by any remarkable Change about the principal Cause of the Oath. The Obligation of a Nation's Allegiance to their Prince can be nothing else, but his being in actual capacity to command and protect them; whensoever therefore this actual Capacity is changed, then the Obligation to Obedience must be changed also.

The reciprocal Obligation there is between the King and the People, binds the one to Protection and just Government, and the other to Tribute and Obedience; and those Duties of Protection and Obedience appear to be co-relative. So the Law has appointed reciprocal Oaths to be taken for the better enforcing the performance of these respective Duties, that is, the Coronation Oath on the King's Part, and the Oath of Allegiance on the Subjects, which is an Agreement or Covenant between King and People: All Agreements are Covenants, but much more that which hath the Obligation of an Oath to bind it.

Obligation between King and People reciprocal.

I ask, Whether it is not as reasonable that a King conspiring the ruin and destruction of his People, by breaking his Oath or Contract, and destroying the very Foundation of Government, and in lieu thereof bringing in Popery and Slavery (as the late King James did) should forfeit and lose the Right of Governing, as that the People conspiring against him should suffer Death?

I ask, Whether the Authority which is inherent in our Kings be boundless and absolute, or limited and determin'd? so that the Acts which they do, or command to be done without that Compass and Bounds, be not only sinful in themselves, but invalid, and not authoritative to others.

The word Loyal comes from the *French* word *La Loy*, which is to be Legal or true to the Laws of the Land; and on the contrary, he that obeys the Commands of his Prince against the Laws of the Land, is so far from being Loyal, that he is an illegal Person, and a betrayer of the known Laws of his Country.

Passive Obedience is Popery establish'd by Law.

Passive Obedience is Popery establish'd by Law when ever the Prince shall please; and by consequence Slavery; whereas the Subjects of *England* never were Slaves in any particular, nor ever would be in the darkest Times of Popery.

I ask, Where was the Doctrine of *Passive Obedience* when Queen *Elizabeth* assisted the *Hollanders* against their lawful Sovereign the King of *Spain*, and when she assisted the Protestants of *France* at a vast Charge, in the Reigns of *Charles* the Ninth, and *Henry* the Third? And in King *Charles* the First's Reign, the Expedition of *Rochel* was carried on by King and Parliament, and cordially agreed to by the Fathers of our Church, and yet the Protestants of *France* could never pretend to any such Privileges as *England* can justly claim.

K. J. his Conspiracy against Religion and Liberty.

The late King *James*'s Life has been but one continued and form'd Conspiracy against our Religion, Laws, Rights and Privileges: and what can be expected from such a Prince (who is a *Romanist*) and has violated his Oath before God and Man, and endeavours to re-establish himself with the Sword, by the assistance of one of the greatest Tyrants that ever the World produc'd?

It cannot be prov'd that Monarchy was originally instituted by God Almighty, or that we are commanded to obey Kings, exclusively to all other Government.

I ask, Where was there such a thing as a King for the first sixteen hundred Years and upwards, which is to the Deluge, or for several hundred Years after it? The first King (at least the first mention'd in Holy Writ) is *Nimrod*, of the Posterity of *Cbam*, who began his Kingdom in the second Century after the Flood, whose Kingdom was founded by Force and Violence; so that the very Foundation of Monarchy seems to be laid from this Person, which makes but little for *Jure Divino*. If Kings are by Divine Appointment, is it not reasonable to believe that God would have commanded all the World to be govern'd by Kings, or at least the Christian World, and have given Men a particular Law to govern by?

If Monarchy be *Jure Divino*, then all other Government is sinful.

Allegiance is due, where Protection is receiv'd.

Allegiance is due to him from whom we receive Protection; this is allow'd by all the World: else why do Men, after having sworn Allegiance to their native Prince, and going into another Country, swear Allegiance to the Prince thereof?

Allegiance is due to a King in possession (who is call'd a King *de facto*) and Treason may be committed against him, as well as against a King by regular Descent; and yet by the Law Treason cannot be committed against the rightful Heir (who is call'd a King *de jure*) who is out of possession of the Crown; and all judicial and political Acts done by a King *de facto* are as valid and obligatory as if they had been done by a rightful King in actual possession of the Throne: whereas, on the contrary, all such Acts done by a King *de jure*, who is not in possession of the Crown, are totally void. In like manner the Law prefers the Peace and Order of the Polity, before the particular Rights of the King himself; and the great End of the Regal Authority, and of the Law it self, is the Quiet and Prosperity of the Commonwealth.

Safety of the People.

'Tis an acknowledg'd Aphorism, that the Safety of the People is the Supreme Law, and therefore to be prefer'd before Titles to Succession.

The Succession of the Crown of *England* is not by Divine Right, but by Political Institution; and all the Prerogatives and Authorities of the Crown belong to the Successor *de facto*, and not to the Heir *de jure*, or *ex ordine*, being out of possession; and Allegiance is due in such case to the former and not to the latter.

All the Proofs that are brought out of the Gospel for Obedience to Princes, do confirm this Maxim of our Law; for neither our Saviour or his Apostles bid Christians enquire into the Right and Title of the *Roman* Emperors, but obey them under what Government it was their lot to fall, for few of them could pretend a legal Title to the Crown.

A Challenge to the Jure Divino and Passive Obedience men.

I challenge all the *Passive Obedience* and *Jure Divino* Men in *England*, nay in the whole World, to answer these Assertions and Propositions, and prove the Doctrine of *Passive Obedience* and *Jure Divino* by Scripture, Law, or Reason. When these are proved, I dare be bold to affirm the Nation will send for the late King *James*, and submit to his Yoke, and lay down their Necks upon the Block, and stand to the mercy

mercy of the *French* and *Irish* Dragoons to cut their Throats.

I conjure all the dissatisfy'd Persons in their Majesties Dominions to be satisfy'd with these Assertions and Propositions, or to answer them, and to shew sound Reason for their dissent from the present Government; for a wilful Schism in the State is a Sin, and he that endeavours to sow Dissensions among the People, and to draw their Majesties Subjects from their true Allegiance, is guilty of a double Sin.

*The LETTER which was sent to the
Author of the Doctrine of Passive Obedience and
Jure Divino disprov'd, &c. Answered and Re-
futed.*

S I R,

I Question not but that your Answer is the Idea of your Mind; which I doubt not but to make appear to be not only pernicious, but tends to the destruction of all humane Societies; and likewise, that you have wrested the Scripture, and made notorious false Assertions. For brevity sake, I shall leave out your unnecessary Prologue. You say, you will not recite any of my Words, but refer to my Propositions in that order as I have set them down, being thirty eight Breaks or Sentences.

I do desire you, and all impartial Men that read this Book, to take the pains to read my former Sheet, and number the Breaks or Assertions therein, and compare them with your Answer (which I shall set down *Verbatim*) that they may the better judg of the ridiculousness thereof.

" 1. To begin; (you say) By the Word of God it appears, that Monarchy is
" the Government which God hath chosen above all others, and that the People
" were always oblig'd to accept that Form of Government which God had chosen
" for them, before they did actually bind themselves: See him, said Samuel to all
" the People, whom the Lord (not you) hath chosen, 1 Sam. 10. 24. Jeroboam in-
" deed was a King of the Peoples making, and presently after (you know) they
" made a golden Calf. This Act of the People (tho permitted by God for the
" punishment of Solomon's Sin) is more than once call'd Rebellion in Scripture,
" 1 Kings 12. 19. 2 Chron. 10. 19.

Object. 1.
From the
Jure Divi-
no of Mo-
narchy.

1 Sam. 8. 19, 20. The Children of Israel importun'd him for a King over them, that they might be like all the Nations, and that he might judg them and go before them, and fight their Battels. Chap. 10. 24, 25. And Samuel said unto the People, See him whom the Lord hath chosen: And he told the People the manner of the Kingdom (which was the Law of the Kingdom) and wrote it in a Book, and laid it up before the Lord. Surely no Man will say, but that this Law was a Rule for the King to go by as well as the People: And then where was his Absolute Authority? Chap. 11. 14, 15. Samuel said to the People, Come, and let us go to Gilgal, and renew the Kingdom there. And all the People went to Gilgal, and there they made Saul King before the Lord. 1 Sam. 12. 12, 13. Ye said unto me, says Samuel, Nay, but a King shall reign over us, when the Lord your God was your King (by which it appears there was no other King but God) Now therefore behold the King whom ye have chosen. But tho he was made King by the Appointment of Almighty God, yet it was thought necessary the People should confirm and make him King again: And, 1 Chron. 29. 22. the People made Solomon King the second time: Which makes not a little for the Peoples Right in electing their Kings. Jeroboam was a King by the appointment of Almighty God (tho elected by the People) 1 King 11. 35. Where the Prophet Abijah speaking to Jeroboam, Thus saith the Lord, I will take the Kingdom out of Rehoboam's, the Son of Solomon's hand, and will give it to thee, even ten Tribes. But with what face can you wrest the Scripture thus, in saying, that the Peoples chusing of Jeroboam

Answer.

is more than once call'd a Sin, when both these Texts which you quote relate to the foregoing Verses, wherein 'tis said, That King *Rehoboam* sent *Adoram* that was over the Tribute, and all Israel stoned him with stones that he died; which was Rebellion, because it was resisting the lawful Authority? Besides, *Jeroboam* is not mention'd as King till after this Act was committed.

Object. 2. " 2. The true and real Greatness of the Sovereign is never inconsistent with the Publick Advantage.

Answer. The true and real Greatness of the Sovereign, both from God and Man, is not to annihilate or destroy Government, but to preserve it with Justice and Peace. All Acts contrary to the Laws of the Land are far from being a true and real Greatness; and therefore are inconsistent with the Publick Advantage.

Object. 3. " 3. Those things which God hath join'd, let no Man put asunder: The Head cannot be well, if the Members be much out of order; neither can the Members rightly perform their Office if the Head be sick and weak. The Good of the Society is indeed the End of Government; but 'tis nonsense to talk of the Good of a Society, without including the Governor as well as the Govern'd.

Answer. The People are no ways commanded by God to put themselves into this or that Form of Government, but 'tis wholly left to their choice: And all Government whatsoever, tho after the mutual Ties of reciprocal Oaths, are not joined by God, tho permitted by him. But how do you wrest the Scripture which particularly relates to Man and Wife (and apply it to Government) as may be seen *Mat. 19. 6.* But, *vers. 9.* allows a Man to turn away his Wife for Fornication, tho join'd by God. But suppose the King and People are join'd together by God, is it not much more reasonable to turn away that King who shall endeavour to destroy the People, or overthrow their Laws, Rights and Privileges, and make them Slaves to his Arbitrary Will and Pleasure, than to turn away one's Wife for Fornication? I say, if a Woman forfeits her Right to her Husband, by breaking of her Marriage Vow in committing of Fornication, surely 'tis much more reasonable that a King who breaks his Oath, and endeavours to overthrow the Government, and establish an Idolatrous Religion (and by consequence robbing God and the Nation of their Rights) should forfeit his Right to the People. The Safety of the Body (that is the People) is to be valued before the Head (which is the chief Governor) because it is an easy matter to get a Head to the Body, but not a Body to the Head.

Object. 4. " 4. The Law preserves the King from Force and Violence, tho he should not Kings free always make it the measure of his Power. It hath also more respect for the mere from Force. " Instruments of his Arbitrary Will, than to treat them as Robbers and Banditti: " otherwise a Man would much rather chuse to be the Lord Chief Justice's Servant " than the King's; because the one can assure me that his Commands are Law, " whenas the other (rather out of Ignorance of the Law than Malice) may un- " advisedly engage me in those Services which are not warranted by the Law.

Answer. The Law preserves the People from Force and Violence as well as the King; but So the Peo- no Force or Violence hath been us'd to the late King *James*, tho some Law with ple from Force has been us'd to some of his Instruments: And the Law of the Land, Na- Violence. ture, and Self-preservation, will justify us in what has been done. The Plea of Ignorance in matters of Law, is not allow'd in the meanest Subject the King has; and can the King plead Ignorance when he hath a learned Council, with Judges always to advise with?

Object. 5. " 5. If the People had made the Law the measure of their Privileges, as well " as King *Charles* the First did make it the measure of his Power, we might " probably before this time have seen a good Agreement between these two ze- " lous Competitors. A little Passive Obedience in the business of the Ship-mony, " would, I'm persuaded, have done the Kingdom no harm in that conjunc- " ture.

Answer. King *Charles* the First did not make the Law the measure of his Power when he Law not the rais'd the Ship-mony, which was contrary to Law; and the People refusing to sub- measure of mit to it, made the Law the measure of their Privileges; for they were bound Power in by no Law to consent to any thing the King should command contrary to Law, the Ship- much less a Privilege of such vast Importance, as the parting with their Mony con- mony. trary to Law.

Object. 6. " 6. Absolute and unconditionate Obedience is, I grant, due only to God, who " alone has Absolute Authority; and to the King no otherwise than as his Vice- " gerent, which Character he doth not altogether lose by the abuse of his " Power.

" 7. In-

“ 7. Inſomuch that they who reſiſt, do reſiſt not only the Uſurpations of Men, but the Ordinance of God, tho the Perſon be a *Claudius* or a *Nero*.

A Vicegerent is one that is appointed, but God has no where appointed or commanded the World to be govern'd by Kings (tho he permits them) therefore they are not God's Vicegerents; but they may be very properly call'd his Vicegerents whilſt they adminiſter Juſtice and Equity to every Man: There is no abſolute Authority given to Princes in Scripture, nor no abſolute Subjection commanded to them beyond the Laws of the Country; and therefore Kings do loſe the Character of God's Vicegerents, when guilty of a habit and conſtant tract of Arbitrarineſs and unreaſonable Actions contrary to the Laws of the Land. All Acts of Kings or Magiſtrates, contrary to the Law of God or Man, are no legal Acts, but Uſurpations, therefore they are the Acts of private Perſons; and we are no ways in Scripture commanded to obey ſuch Acts, therefore we may right our ſelves from all unreaſonable and tyrannical Uſurpations. We ought to obey all Magiſtrates whilſt they keep up Rule, Order and Government, letting the People live peaceable and quiet lives according to the Laws (which is the deſign of all Government) but if inſtead of executing Wrath upon evil doers, according to the Scripture, they become evil doers themſelves, endeavouring to make the people Slaves to their arbitrary Will and Pleaſure, in ſuch caſes they are not Magiſtrates according to Scripture or Law, and therefore it is lawful to ſecure our ſelves from ſuch deſigns; for as the King may with Law and Reaſon ſecure himſelf from the deſigns of all evil Men, ſo may the People ſecure themſelves from the unlawful deſigns of any Man or Men whatſoever. Sir, you are pleaſed to make God the Author or Approver of the Uſurpations of Men, which I abſolutely deny, and doubt not but I ſhall make it appear to the contrary. *Rom. 12. 17. Recompense no man evil for evil.* If a Man robs me, or ſets fire to my Houſe, I ought not to do the like to him, but right my ſelf by the Law; but if he ſhall endeavour to take away my life contrary to Law, 'tis no evil, but an incumbent duty to defend it. *Verſ. 18. If it be poſſible, as much as lieth in you, live peaceably with all men.* It is not poſſible we can live peaceably with thoſe who endeavour to deſtroy us; *Ergo* we may ſecure our ſelves from ſuch endeavours, and reduce ſuch Men to peaceable lives. *Verſ. 19. Dearly beloved, avenge not your ſelves, but rather give place unto wrath;* that is, rather ſuffer by an unjuſt Law than reſiſt, tho it be a Heathen Prince. I would fain know where was the abſolute Authority of Kings, when the Children of *Iſrael* receiv'd the Law from the Levitical Priethood, and whether thoſe Laws were not binding to the King as well as the People; and whether our Kings have an abſolute Authority; if not, by what Scripture or Reaſon we may not ſecure our Perſons, our Rights and Privileges from the unlawful and unchriſtian Deſigns of the Prince?

Answer.
Kings not
always
God's Vice-
gerents.

“ 8, 9, 10, 11. I object nothing againſt your eighth and ninth Aphoriſms, nor your tenth, if it be meant only of that Defence which one private Perſon may make againſt another. But to your eleventh Maxim I can by no means aſſent; for if every Man has the right of Self-preservation as intire under Civil Government as in a ſtate of Nature, what difference, I beſeech you, is there betwixt the one and the other ſtate? And why was Civil Government inſtituted and appointed by God? Surely for no other end, but that Men ſhould not be their own Carvers, and involve the Publick in thoſe Miſeries which inteſtine Broils and Quarrels would daily produce. Tho ſubordinate Magiſtrates may be puniſh'd for Acts of illegal Violence, becauſe they are no part of their Office; yet as long as they continue in Office, they are publick Miniſters, and ought to be accounted as ſuch, till for their Crimes they ſhall be degraded.

If the King himſelf has Authority to take away a man's Life contrary to Law, then he can give this Authority to ten thouſand Perſons if he pleaſes; and then they wou'd be no private Perſons, becauſe they wou'd act by his Authority. In a ſtate of Nature every Man acts according to his Reaſon in righting or preſerving himſelf; but every Man hath more right of ſelf-preservation in a Civil Government, than in a ſtate of Nature, becauſe the Law allows of ſelf-preservation, and puniſhes thoſe that endeavour to take away a man's Life contrary to Law. If one meets me, and endeavours to take away my Life, and I muſt either die upon the ſpot, or defend my ſelf, in this caſe if I kill him it's no Murder, but if he kills me it's Murder. Civil Government was ſurely appointed by God and Man for no other end, but that Men ſhou'd live peaceable and quiet Lives, and not that Magiſtrates ſhou'd be their own Carvers, and inſtead of protecting and governing the People (according to the Laws of the Land) deſtroy them.

King has no
Authority
to take ones
Life con-
trary to
Law.

“ 12. This

" 12. This is right Common-wealth Rhetorick, they were Children of *Belial* (*i. e.* Masterless Persons, as the word signifies) who said, *How shall this Man save us? and they despis'd him*, says the Text, 1 Sam. 10. 27. More Throats have been cut by the Doctrine of Resistance, than ever were by that of Passive Obedience, witness our Nation in all Ages.

Passive Obedience Principles exploded.

No Passive Obedience in Julian the Apostate's time believ'd.

Texts of Scripture explain'd.

These are Passive Obediences with a Vengeance, and right Antichristian Principles, to set up one Member so much above the rest, that if it endeavours to destroy them, they are oblig'd to make no Resistance: More Throats have been cut by this Doctrine of Passive Obedience than that of Resistance, witness all the cruel Persecutions under the *Roman* Emperors, the Massacres of *Paris*, *Piedmont* and *Ireland*, and many more Instances might be given. But suppose the contrary, the sin lies at their doors, who by their cruel Persecutions and Violations of the Rights of the People, force them to right themselves. 'Tis certain the Gospel does no where require or permit the planting of Religion by the Sword (tho the Papists have practis'd it in all Ages, to the destroying of many thousands of Souls) We ought not to defend our Religion when the Laws of the Country are against it; but the Scripture does not require us, not to defend our Religion (or Civil Rights) which is establish'd by the Laws of the Country; *Ergo*, we may defend them, for *where there is no Law there can be no Transgression*. If it is not lawful to defend our Religion, then any Army, or number of Heathens, may come and settle their false Religion here: And if it is lawful to hinder the settling of Religion here by a foreign Power, it must be lawful to hinder the settling of a false Religion amongst ourselves (as the *Romish* Religion is, if the Scripture be true) And I think no Man can without impudence deny, but that *K. James* had a design to settle his false Religion here; by consequence it is lawful to hinder him. When *Julian the Apostate* told the Christians, their Doctrine was to suffer, an eminent Man of that Age (*a*) wrote a Tract (*de Regibus Apostaticis*) and approv'd as Orthodox Doctrine by Bishop *Athanasius*, wherein the Emperor was inform'd, that the Christian Religion, when establish'd by Law, allow'd them to justify their Rights, and not to be ruin'd and destroy'd to gratify an idolatrous Prince. *Eccles. 8. 4. Where the Word of a King is, there is Power, and who may say unto him, What dost thou?* The Word or Command of a King is suppos'd to be according to the Law or Custom of the Country, in which Acts no body ought to controul him. But suppose a King be guilty of all manner of Illegalities and Cruelties, must not a Bishop or a Nobleman, in an humble manner, tell him of his Faults? Surely the Scripture never meant it in such a sense. 1 Pet. 2. 13, 14. *Submit your selves to every Ordinance of Man for the Lord's sake* (which is every Law of Man) *whether it be to the King as Supreme* (that is, the chief Executor of the Laws) *or to Governors as unto them that are sent by him* (which are Officers appointed by the King for the executing or fulfilling of the Laws) *for the punishment of evil Doers, and the praise of them that do well.* Rom. 13. 1. *Let every Soul be subject unto the higher Powers* (that is, to the Laws or Customs of the Country, and to the Prince as the Executor thereof) *for there is no Power but of God* (the greatest Villain amongst Mankind acts by the power of Almighty God, but not by his appointment or approbation) *the Powers that be are ordain'd of God* (the Power which every Man hath is from God.) Ver. 2. *Who so therefore resisteth the Power, resisteth the Ordinance of God* (he that resists the Laws, resists the Powers, beyond which a Prince hath no power, except to act by Fraud or Force, which is against Divine and Humane Laws) *and shall receive to himself damnation.* Ver. 3, 4. *For Rulers are not a terror to good Works, but to the Evil; for he is the Minister of God to thee for Good, a Revenger to execute Wrath upon him that doth Evil* (He is the Minister of God for good, whilst he administers Justice and Equity to every Man, and punisheth him that doth evil, or violates the Laws) Ver. 5. *Wherefore ye must needs be subject not only for Wrath, but for Conscience sake*; which can be nothing else than to suffer according to the Laws of the Country, tho never so unreasonable. The Laws of Countries are suppos'd to be made agreeable to the Inclinations of the Majority of the People; and therefore the lesser number ought to conform to the greater, but if against their Conscience, to suffer; for it is impossible to make Laws for the Security and Well-government of a Nation to please every body. Prov. 8. 15. *By me Kings reign, and Princes decree Justice*: That is, by the appointment or permission of God Kings and Princes reign, and decree Justice; but it cannot from

(a) *Lucifer* Bishop of *Cagliari* in *Sardinia*.

hence be infer'd, that he commands or allows of their Injustice, and endeavours to destroy the People whom they ought to preserve. Rom. 12. 17. *Render therefore to all their dues, Tribute to whom Tribute is due, Custom to whom Custom, Fear to whom Fear, Honour to whom Honour*: That is, Tribute, Custom, Fear and Honour to whom it is due by the Laws of the Land. There is no Fear due to a Prince from him who liveth according to the Laws of the Land, but from him that doth not. What a Sin are you, and all other men that are for Passive-Obedience, guilty of? that wrest the Scripture which was appointed for the suffering State of the Primitive Christians, whilst under Heathen Princes, and without Laws to support them, and compare them to our present Circumstances, and would oblige us to be passive as they were, tho our Religion and Liberties are establish'd by the Laws of the Land? All that Men can blame us for, is for doing that which is just, viz. for rescuing a true Religion from an idolatrous one, and preserving our Laws, antient Rights and Liberties, from the Ruin and Slavery of arbitrary and unreasonable Men, and establishing them upon a sure and lasting Foundation. I ask, whether it can be found that to one Christian in ten or twenty God hath given so much Courage and Strength (as he did to the Primitive Christians) to withstand the cruel persecutions of their Enemies for the sake of Religion? Witness *France* and *Hungary*. And many more Instances might be given, by which it appears, that God hath not only left us to human means for the preservation of our Religion when establish'd by Law, but that he expects it, it being for the preservation of our own and our Childrens temporal and eternal Happiness. As it is not lawful to persecute contrary to the Laws of the Land, it follows, that it is lawful to withstand such Persecution: And is it not better to die with the Sword in the Hand, in defence of the Gospel and its true Religion, against a false one, which is endeavour'd to be set up contrary to the Law of God and the Country, than to be forc'd by cruel Tortures and Persecutions to worship God in an idolatrous way? But some may object, it can be no real Idolatry without the Heart joins with the Ceremony of the Body; yet an outward Idolatry is a great sin: But who can secure to us, that our Children, or Childrens Children shan't be real Idolaters? Then the sin of Idolatry, which they shall be guilty of, will be laid at our doors, when by a timely Defence we might have prevented it.

“ 13. Kings ('tis true) were made to govern and protect the People, the People to reverence and obey their Kings; both Kings and People to serve God, and keep his Commandments.

The People are oblig'd to obey their King in every Act or Command of his, which does not derogate from the Law of God and the Nation.

“ 14. The Design of the Corporation-Oath was most plainly to prevent all Rebellions, upon any pretence whatsoever.

Can any Man be so mad, as to think the Parliament did give up themselves and the Community, to obey whatever the King should command? For what is it else, if the *Oath of Allegiance*, or *Corporation-Oath* is to be taken in the strictest sense? This were to make the King a Tyrant by Law, or at least allows him to be such. No Oath is or can be binding beyond the Design of the Giver: It is plain these Oaths were not design'd for our Ruin, and therefore cannot be taken or kept in that sense: All Oaths to a Governor or Government, are design'd for the Good, Safety and Welfare of the Govern'd as well as the Governor. So no Oath can bind us to our own Destruction: tho lawful Authority should command such an Oath, it were a Sin to take it, but much greater to keep it, because such Subjection is inhumane, and contrary to the very design of Government both from God and Man; and the lesser Evil ought to be chosen before the greater: Rebellion is resisting the lawful Power of the Government, but it is no more Rebellion to resist the unlawful and exorbitant Power of the Prince than to resist *Wat. Tyler* or *Jack Cade*, &c. They are Rebels who arm against the Government (which is the Laws) not they that arm to defend it.

Corporation-Oath explained and vindicated.

“ 15. *David* made no Resistance at all, neither Offensive nor Defensive. As for your Negative Resistance by Flight (as you term it) I do not understand it: As for the Forces which he had about him, it's most probable that he rais'd them for no other purpose, but to be Spies and Scouts, to give intelligence of *Saul's* Ambushments: For what would six hundred Men have signified to *Saul's* numerous Army, had it been *David's* intent to make any Resistance? We read indeed that *Abiath* was depos'd, but what was the Reason? Not because she was a monstrous unnatural Tyrant, but because she was an Usurper.

He

No Obedi-
ence due
but by Law.

He who does not obey the Commands of his Prince, when according to Law, makes negative Resistance, because he resists the Law, and by consequence the Prince. What could *David* mean by having six hundred men but to secure his Person, and make positive resistance, if he had been forc'd to a strait, and could not have secur'd himself otherwise? Surely fifty or an hundred Men would have been enough for Spies and Scouts: Could not God have deliver'd *Saul's* numerous Army into the hands of his six hundred Men, as well as the numerous Army of the *Amalekites* into the hands of but four hundred of his Men? 1 Sam. 30. 10, 17. 1 Sam. 26. 9. *David* said to *Abishai*, destroy him not; for who can stretch forth his hand against the Lord's Anointed, and be guiltless? *Abishai* had a design to destroy *Saul*, and stretching forth his hand in that design had been a great Sin. But he that defends himself from his Prince (who, tho in his own Person, contrary to the Laws of the Country, endeavors to take away his Life) and is reduc'd to a strait, cannot properly be said to stretch forth his hand against him, when at the same time he designs not to kill him or do him any harm, but to disarm him and secure himself. *Joash* was made King of *Israel*, and *Athaliah* was slain; but it may with more reason be thought for murdering all the King's Sons except *Joash*, who was hid from her, than for usurping the Throne; for there is not the least mention made of the cause of her death, 2 Kings 11. For do we not find in the next Chap. ver. 20. that *Joash* was kill'd by his Servants? but so soon as the Kingdom was confirm'd to *Amaziah* his Son, he slew his Servants who had slain his Father. The Proofs of Scripture, which I quote, have a particular relation to the Primitive Christians under the Heathen Emperors, and to the Children of *Israel*; and 'twas usual with God to set up one King over his People the Jews, and pull down another for their Misgovernment: But we cannot expect God to act so for u, because he does not set up or appoint our Kings; therefore we ought to turn out such Governors who endeavour to destroy the Government, and set up such who will preserve it.

“ 16. Neither an Invasion actually made, or eminently fear'd by a foreign Power, doth authorize Subjects to depose their King.

K. J. invading the Rights of the People, is not to be assisted.

The Constitution of the Government justify'd.

We have not depos'd the King, neither was there any other design than to recover our Rights and Privileges, and secure them for the time to come to our Posterity, which every man is bound to endeavour (it being for the common good of the Nation) against the destructive designs of the Prince. But by what reason, say some, should King *James* lose the Right he was born to, and by the Law ought to have? To which I answer, if King *James* had kept to Law, he had never lost his Rights; for in his so doing the Subjects were bound to assist and defend those Rights: but if K. *James* invading the Rights of his Subjects, and endeavouring to support that Power by Force, if by Force he lose his Rights, he may thank himself for invading the Rights of others. Does not a man, tho free-born, forfeit his Life by firing of a House, Robbing, &c. which are but particular Calamities; and shall not a Prince, who is guilty of a general Calamity by destroying the Laws, and endeavouring to enslave the Nation, lose the Right of governing that Nation, which is infinitely more reasonable, than that the other should suffer death? The Law allows a particular man for just Causes to disinherit his eldest Son, and settle his Estate upon others of his Posterity, for the preserving of his Family: What Reason can be given (in an extreme necessity) why such an advantage should be deny'd for the preservation of the Nation? But to proceed: The Constitution of our Laws is the happiest in the World, it having instituted the Legislative Power in three Heads or Parts of Government, that is, the King, Lords and Commons: and that neither one or two of these Parts can make or annul a Law, is most certain; and if either one or two of these Parts should assume that Authority, that Part of the Government or Constitution is dissolv'd and broken off. If I prove King *James* did take upon him this Authority, it will appear he thereby became no Governor or part of the Government. Which premis'd, I proceed: What could the compleat Legislative Authority have done more, than in making a Law to annul any Law or Laws of the Land? Did not the King take upon him this whole Authority, that is, to make a Law to dispense with the Laws of the Land? And was not its effect accordingly, by putting Papists into places of Trust, and by setting up Popish Schools and Chappels, Monasteries, Frieries, &c? What was this but making himself the whole Fountain of the Government, when he was but a third part of it? in doing of which Act, he hath dissolv'd that part of the Government which related to himself, by laying aside his Kingly Authority (which is to govern according

according to the Laws of the Land) and governing by his Absolute Will and Pleasure, whereby he ceas'd to be King; upon which the Oath of Allegiance is void as truly and really, as if he was actually dead, or had sign'd a Resignation of his Crown, because it was taken to him as King ruling according to the Laws of the Land, not according to his Will and Pleasure. But suppose no Forfeiture could be made for his Male-Administration: If King *James* has Power to absolve his Subjects from their Oath of Allegiance, by resigning up his Crown (which is allow'd by all men) then the Stipulation, which hath been taken, does naturally fall by his deserting the Throne, and leaving no Commissioner or Commissioners to officiate in his stead; and throwing away the Seals of *England*, was nothing less than a publick Relinquishment of his Throne to the Nation. But what can be said for *Scotland*, say some, he having a Commissioner there? To which I answer, That he never was a lawful King there, if what they say is true, that he never took their Coronation-Oath, as well as for his ruling by, and declaring for an absolute Authority, and that the People ought to obey him without reserve: But tho they obey'd him for the sake of Peace, yet it was highly reasonable, as well as necessary, to throw off this arbitrary and unlawful Governor. If no Forfeiture could be made, as some would insinuate to the World, what Anarchy and Confusion by consequence must this Government have run into? For if we could only oblige him to promise or swear to govern according to Law, and not to commit the like Enormities for the future, what would this signify to a Prince whom no Oath can bind? and by the same Rule he has broken one Oath, he can break a thousand. But suppose he had sworn this, and immediately after should have committed all manner of Outrages and Cruelties, what must we have done in that case? Why, we must have made him swear again and again as oft as he should break his Oath. But if he had refus'd to take such an Oath, or declar'd he neither could nor would keep it, which is much the same thing as if he had taken it; then after having given our selves all this unnecessary trouble, we must e'en have set down and cry'd, *Lord have mercy upon us*, and expect our deliverance by Miracle, tho Miracles are ceas'd. I say, what Destruction and Confusion must we by consequence hereof have run into, even to the utter Extirpation of all our Civil Rights, and what is most dear to us, our Religion, and destroying of many thousand Souls, which he could not have stuck at for the promoting his Religion, by which he is oblig'd (under the pain of Damnation) to root out all Heresy and Hereticks, for so they call the Protestants? If he could not have perverted us by *English* and *Irish*, or *French* Soldiers, he must have consented to the cutting our Throats (or else damn himself by the neglect thereof) to prevent the spreading of Heresy, by which Act he would have merited Heaven in the highest degeee, according to the Doctrine of their Church. Ah, but say some, we might have bound up his hands from breaking of the Laws for the future. How absurd is this, to talk of binding a King's hands, whom no Oath could or can bind, and who has declar'd himself absolute, that is, above all Laws, his Will being his Pleasure, his Pleasure his Law? Besides, all forc'd Bonds or Contracts are void by the Law; as for example, if *A*. Debtor to *B*. gives him a Bond for so much Money to release him out of Prison, 'tis of no force, he being forc'd to it in order to get his liberty: And that such an Agreement, tho by Lords and Commons in Parliament, would not be voluntary, but forced, is most certain, because it would be to get a peaceable possession of his Throne, and therefore it would become *ipso facto* void to all intents and purposes. There could be no other way of binding his hands, than in effect to dethrone him, by taking from him the Authority, and leaving him only the Title of a King, and appointing a Regent to execute the Kingly Office for him, which he would never have consented to, because he would have been nothing but a mere stalking Horse: and the result of this Action could have been nothing less than a continu'd Confusion during his Life, if not a Civil War; for, no doubt, he would have endeavour'd to get a full possession of the Throne, and to that end the King of *France* would have assisted him with Men, who, with the Malecontents already here, would have occasion'd a Civil War, for we must have defended the Regency. I say, if the Nation hath Power to take from him his Authority, and make him only a titular King, surely they have Authority, when an absolute necessity requires it (as in our present Circumstances) to set up or appoint another King.

No binding
of K. J. by
any Laws.

“ 17. This Apothegm gives just as much, and no more to a crown'd Head, as to a private Person.

This Assertion I deny; for a private Person has no Authority at all but to live according to the Laws, whereas a King is an Executor of the Laws. But you would set the King above the Laws, tho'tis certain the Laws are his Rule, as well as the Peoples; and he cannot go contrary to them, without robbing the People of their Rights.

" 18, 19. The eighteenth is much the same with the fourth, as also with the
 " twenty third and twenty fourth following, which yet I shall take notice of
 " in their places. As to the nineteenth I answer, *Simmel* and *Warbeck*, had either
 " of the Cheats succeeded, might properly have been call'd counterfeit Kings; but
 " a King who ascends the Throne by a regular Title, is a true and real King,
 " tho he doth not (as he ought) make the general good of the People his chief and
 " main end.

'Tis the
 Office not
 the Title
 alone that
 makes a
 King.

Were the Kings that were set over the Children of *Israel* counterfeit Kings, because they were not by regular Descent, of which there are many Instances? *2 Kings* 23. 36. *1 Chron.* 3. 16, &c. and Obedience was paid to them as much as to the others. A King is a true and real King, when in possession of the Throne (tho not by regular Descent) having taken the Coronation Oath, and governing according to the Laws of the Land: 'tis not the Title, but the Office, that makes him a King; which if any King derogates from, he forfeits his Right of governing. For example, *Sigisbert* King of the *West-Saxons* for his Male-administration was driven out of his Kingdom by the Nobles and People assembled together; and King *John*, King *Edward* the Second and *Richard* the Second were, for breaking their Oaths, and governing contrary to the Laws of the Land, turn'd out of their Thrones, and others appointed in their stead: and a Clause of King *Henry's* Charter says, *If the King invades those Rights* (meaning the Rights of the People) *it is lawful for the Kingdom to rise against him, and to do him what injury they can, as tho they ow'd him no Allegiance.* Whilst the Lady *Elizabeth*, the true Heir of the Crown was living, *Henry* the Seventh was declar'd King, without joining her in the Title, or so much as making any mention of her Right; yet notwithstanding the Kingdom bore Allegiance to this King *de facto* before he confirm'd his Title to the Crown, by marrying her. By a Law made in King *Edward* the Confessor's Reign, it is declar'd, that if the King doth not perform his Office, he shall not so much as retain the Name of a King. If a King that comes to the Throne by regular Descent, shou'd refuse to take the Coronation Oath, the People are not bound to swear Allegiance to him; and he neither ought, nor can be obey'd as a King in the least Command, tho he shou'd promise to govern according to Law; and he being not qualified according to Law, therefore could not be Head and Governour. A King acting contrary to the Laws of the Land, is so far from being a true and real King, that in every such Action he is no King at all, because his Kingly Office is to act according (but not contrary) to the Laws.

" 20. Here let me speak to you in the words of *Solomon*, *I counsel thee to keep the*
 " *King's Commandment, and that because of the Oath of God, Eccles.* 8. 2. The Ob-
 " ligation of our Oaths doth not cease, tho the King be not in a capacity to protect
 " us. If Protection be the only Ground and Foundation of Allegiance, we ought
 " to become Subjects of the strongest Monarchy: If the King of *France* be best able to
 " protect me, it is not only my Interest, but Duty (according to this Doctrine) to
 " swear Allegiance to him, tho he be (as you say) one of the greatest Tyrants that
 " ever the World produc'd.

Testimonies
 from Scrip-
 ture ex-
 amin'd.

The Oath of God, that is mention'd *Eccles.* 8. 2. was the Oath of Obedience, which the People had taken to the King, of obeying him in the Execution of the Laws, which were the Laws appointed by God for Kings to govern by, *1 Sam.* 10. 24. *Nehem.* 10. 29. The Children of *Israel* took a Curse and an Oath to walk in God's Law, and to observe all the Commandments of the Lord, his Judgments and his Statutes, which were the Laws of the Kingdom; but when they did obey their Kings contrary to Law, God did punish them, and likewise their Kings by delivering them into the hands of their Enemies, &c. *Ezek.* 17. The King of *Babylon* made the King of *Jerusalem's* Son King of *Jerusalem* (during his Father's life, whom he had taken Captive with him) and made a Covenant with him, and took an Oath of him, *Vers.* 12, 13. The King of *Jerusalem* broke this Covenant in sending for Horses and much People from *Egypt*, *Vers.* 15. But *Vers.* 16. the Lord does declare he shall die for breaking the Covenant, which is call'd the King of *Babylon's* Covenant. What is breaking of a Covenant, but one's cancelling of the Obligation to the other by Non-performance on his side? 'Tis plain from hence,

hence, that the sin lieth at his door who breaks the Covenant, and that it thereby becomes as void to the other as if never taken. *Josh. 2.* The two Spies that were sent by *Joshua* to *Jericho*, swore to *Rahab* that she and all her Father's house should be saved alive, *Vers. 20.* But if thou utter this our business, then we will be quit of thine Oath which thou hast made us to swear. What can be more plain, but that upon the Non-performance of an Oath on one side, the other becomes void? Can any man believe the Nation would have been so mad, as to have taken the Oath of Allegiance if King *James* should have refus'd to take the Coronation-Oath, which are mutual Ties of Faithfulness one to the other? What greater Nonsense can there be than to say, that one man must be true to another, when he hath broken his Oath, and endeavours to ruin or destroy him? Certainly in this case his Oath is void, and his righting or defending and securing himself, is no falseness to the other; and the mischief that in that case happens, is a sin to the Invader, not to him that endeavours to right himself: this is allow'd by the Laws of the Land and Nature, for there is no Oath can bind a man contrary to the Duty which is due to himself; then how can a man be true to himself, if he lets another ruin or destroy him? *Numb. 30.* If a Woman vow a Vow unto the Lord, and bind her Soul by Bond, if her Father disallow thereof, the Lord shall forgive her: And speaking of a married Woman, *Vers. 13.* Every Vow and every binding Oath to afflict the Soul, her Husband may establish it, or make it void. Surely 'tis more reasonable to believe that God does absolve men from their Oaths of Fidelity to a Prince upon the breaking of his Oath (which is the Covenant) by endeavouring to destroy the People, or make them Slaves, than that a Father or a Husband might make a Woman's Oath void (and in that case God would absolve her) without any Considerations of the unreasonableness thereof. The obligation of an Oath may cease: as if I borrow a Sword, and swear to return it by such a time, and the Person grows furiously mad, the Obligation is void; or if I swear to pay a man so much Money, and he forgives me, the Debt ceaseth as much as if I had paid him the Debt, tho no such Condition was specified: or if two Persons bind themselves by Oath to a perpetual Friendship or Allegiance one to the other, not to wrong, molest, or kill the other, and one shall be guilty of the great sin of Ingratitude, and cheat, rob, or endeavour to ruin the other, or to kill him; in these cases he becomes his Enemy, and the Oath which the other hath taken is thereby become void, because the Covenant is broken; and it is no Ingratitude in the other to right himself by Law, by imprisoning him, &c. or defending himself. Was not King *James* guilty of this sin of Ingratitude in a very high nature, by breaking of his Natural and Political Allegiance which was due to the Community, in destroying the Government (that is, the Laws) and hanging many Persons contrary to Law, by not allowing them to plead for themselves, and endeavouring to make the People Slaves to his exorbitant Will and Pleasure? Now I appeal to all the World, whether or no our Allegiance is not void as to King *James*, upon his breaking of his Allegiance; and whether our Allegiance ought not to be transfer'd to their present Majesties, who protect us, and preserve us in all our Rights, &c. Protection is the only Ground and Foundation of Allegiance, because the Prince swears to protect and govern the People according to Law, for which reason they swear to be true to him; but if he cannot or will not protect and govern them according to their Laws, Rights, and Privileges, they may seek for it where they can get it: For no Allegiance can be due to him from the Community, who endeavours to destroy it. If one Prince conquers another's Country, the People are at the mercy of the Conqueror; and if he swear to protect and govern them according to the Law of the Country, they ought to swear Allegiance to him, and protect him in his Throne by fighting for him against all his Enemies, as long as he continues so doing. We ought to be subject to him whom the Law hath set over us, and who doth protect us, and not to the *French King*, or he that is best able to protect us. I could have instanc'd many more moral Arguments, which would induce any unbiass'd man to believe that all Oaths and Contracts have a tacit meaning, and upon Non-performance on the one side, the other becomes absolutely void, tho not specified at the Agreement; but for brevity's sake I shall leave them out, these Proofs being sufficient to satisfy all rational impartial men.

Man must be true to himself.

The Case of Husband and Father.

When the Obligation of an Oath ceases.

Protection and Allegiance mutually obliging.

" 21. Tho the King do not perform his Coronation-Oath, yet his Subjects are not therefore absolved from the Oath of Allegiance; and on the contrary, the King is bound by his Coronation-Oath, tho his Subjects do not keep that of Allegiance.

What
things ab-
solve Peo-
ple from
Allegiance.

The Subject is not absolved from the Oath of Allegiance for every little Violation of the King's; but if the King endeavours to overthrow the Government, which he's sworn to uphold, or to make the People Slaves, or destroy them, they are not oblig'd by this Oath to stand still and let him: For the Design of this Oath cou'd be nothing less than the Safety of the People as well as the King; and if it was to be taken in the literal Sense, the Parliament bound themselves, and the rest of the Body, to the King as Head, that we should submit to the Invasions of our Religion and Liberties, and the establishing of Idolatry, and to all the Outrages and Cruelties that the Devil or Man could invent, even unto Death it self, which is diametrically opposite to all Laws, both Divine, Natural and Civil, and to all the Sense and Reason of Mankind. And that this Oath cannot be taken in the strictest Sense, tho the Parliament design'd it, is plain, because all Oaths contrary to our Duty to God, our Neighbour, or our selves, are invalid; and by consequence this Oath is so, without a tacit meaning, because it tends to our own and our Neighbours Destruction. There is another thing very observable here; that is, our Baptismal Vow, by which we oblige our selves to perform all Christian Duty to God, our Neighbours and our selves, which is, to be pious, do Justice and Charity, &c. which we cannot perform, if we were oblig'd by this Oath to let the Prince be guilty of all manner of Outrages: Besides, all Oaths opposite to the First a man takes are not binding, till the Obligation of the First ceases; yet the taking of such Oaths is a great sin, and ought to be avoided. There is an Allegiance due to the Government as well as to the King; and he that bears true Allegiance to the Government, bears true Allegiance to the King; and he that bears true Allegiance to the King, bears true Allegiance to the Government: There is a Natural Allegiance due from the King to the Government, of preserving it, as well as a Political one, by his Coronation Oath. It is truer Allegiance to defend the Government against the King and his Adherents, who shall endeavour to destroy it, than to defend the King and his Adherents against the Government. Then how do we bear true Allegiance to the Government, if we stand still, and let it be violated every day? If King *James*, by his Illegal Administration, gives occasion for an Invasion, and cannot hinder it, and makes himself incapable to give protection, by deserting the Kingdom, and so leaves his People to the Mercy of the Invader; who cannot fight against him, without fighting against their Religion and their Conscience? Whilst they remain thus, they have neither Government, Justice, or Benefit of the Law; in this Case the Oath of Allegiance, or Bond which tied them together, is broken, and ceases as much as if he was actually dead, he being dead in Law; and they are no longer his Leiges, but at liberty to get protection where they can find it. Upon the Fortune of War, in *Flanders*, and many other Countries, Towns and Cities have been one while one Prince's, and another while another's; and so have been transfer'd forwards and backwards several times, and with them the Peoples Allegiance: And that this is the Practice of the whole World, I need not intimate to you. Now will any man say, that these men have broke their Oaths, by swearing Allegiance to him in possession? which must be, if their former Oaths are not void, and their Allegiance transfer'd to him in possession. From hence it follows, that Protection is the only Ground and Foundation of Allegiance. The Scripture does not direct Obedience to the right Heir, but the Powers in being. If the People endeavour to destroy or kill the King, the Coronation-Oath neither does nor can bind him to protect them; but on the contrary, he commits a notorious sin against the Law of Nature, if he does not defend himself, and destroy them, if there is a necessity for it to preserve himself.

“ 22. 'Tis not as reasonable that an Arbitrary King should be depos'd (for that must be the meaning of forfeiting and losing the Right of governing) as it is, that Subjects should suffer Death for conspiring against him. My reason is, because the Publick would suffer more by the impunity of bad Subjects than of evil Kings.

“ 'Tis more reasonable a King should lose his Right of governing (call it what you will) for endeavouring to overthrow the Government, than that it should be overthrown by him, and the People lose the Right of being govern'd according to Law; which being done, they must by consequence be Slaves to his Arbitrary Will and Pleasure: The Community would suffer more by one evil King than by a hundred bad Subjects, because the Subjects are punishable for the least Misdemeanour, and the King not. When a King ceases to govern by Law, he ceases to govern; and when he ceases to govern, he ceases to be King: And this was the Case of

A Right of
being go-
vern'd by
Law of
great mo-
ment.

of King *James*, before the Prince of *Orange* landed. Pray observe the Reply to the 18th and 19th Paragraphs.

“ 23. The Authority of no King, but the King of Kings, is boundless and absolute; so that the Kings of the Earth may command things that are sinful, and which none are oblig'd to perform.

This is a certain Verity, and it agrees with my Query.

“ 24. The Word Loyal, 'tis true, comes from the *French* *La Loy*, and signifies one that is true to the Laws. Now he who is so, will perform his Duty both to his King and his Country, and will not be Rebel either to the one or the other.

How can I be true to my King and Country, if I let men rebel against the Laws, by violating them every day? Tho they act by the King's Command, by the Advice of false Counsellors, yet are they Enemies to him, and Rebels to the Government, because it tends to the ruin of both.

Arbitrariness and Law inconsistent.

“ 25. Passive Obedience is neither Popery nor Slavery establish'd by Law, but the Doctrine of Jesus Christ, grievous to none but those who desire to use their Liberty as a Cloke of Maliciousness.

This is far from a direct Answer to my Assertion, wherein I said, and do again affirm, That Passive Obedience is Popery establish'd by Law, and by consequence Slavery, whenever the Prince shall please. I ask, If King *James* when here had put Papists into all Places of Trust relating to the Choice of Parliament-men (which he had already begun) throughout *England*, and requir'd them to return Papists to Parliament, and upon their meeting they should have establish'd Popery, as the Parliament did in Queen *Mary's* days (as no doubt they would) I would fain know how far we should have been from Slavery? and all this by the Doctrine of Passive Obedience, without which they could not pretend to establish their Religion. It is not the Doctrine of the Gospel, or of Jesus Christ, to be passive beyond the Laws and Customs of the Country; this were to make Christ the Author or Approver of Confusion and Destruction amongst Mankind, instead of Justice and Order. 'Tis against all the sense of Scripture and Reason of Mankind, to say that God Almighty created Mankind to be subject to such Princes (and of the Peoples making too) as might overthrow the Government, or use the People like so many Beasts instead of rational Men, and persecute them with all manner of Cruelty, or endeavour utterly to destroy them, tho they liv'd quiet and peaceable Lives; and that the People should not defend and secure themselves from all such evil Designs. If God expects such Subjection, surely it would have been mention'd in Scripture; but as he is no Respector of Persons at the great Tribunal, so who can imagine that he is such a Respector of Persons on Earth, as to set up or allow one Man so much above another, as in the foregoing sense? What can be said of such Men as assert Passive Obedience in the strictest sense, but that they have degenerated from Nature, in cherishing a Doctrine which tends not only to the Destruction of themselves, but to the rest of Mankind, according to the Will and Pleasure of the Prince? Good God! to what a degree of Folly and Madness are some Men arriv'd, to assert a Doctrine, which if once believ'd and practis'd, inevitably tends to the Destruction of Christianity, and of all human Societies; 'tis a Doctrine not fit for savage Heathens, much less for rational Men: these are the only Men fit to be compar'd to Papists, and are as necessary for the Support of the Mother Church as Fire and Faggot; the one prepares them for Destruction, whilst the other destroys them.

Passive Obedience is Popery and Slavery, and how!

“ 26. The Assistance which Queen *Elizabeth* gave to the *Hollanders* and *French* Protestants against their lawful Sovereigns, as also the business of *Rochel* in King *Charles* the First's time, are improperly urg'd against the Doctrine of Passive Obedience: Independent Princes, for Reasons of State best known to themselves, may help their Neighbours without injuring the Doctrine of Passive Obedience.

One Prince may assist another for Political Ends against another Prince or State; but he cannot assist his Subjects, who are in actual Rebellion against him, tho their Pretensions be never so reasonable, without committing a notorious Sin, according to the Doctrine of Passive Obedience, because he that is aiding and assisting to Rebels, is as guilty of Rebellion as if he were actually in it.

How Princes assist each other.

“ 27. Oh, do not revile the King, tho he lay in Ashes, much less whilst he is on this side of the Grave! I question not but that the unfortunate King *James's* Life will be more favourably represented in History than you have here described.

“ scrib'd

“ scrib’d him. You seem to be very angry with him, because he endeavours
 “ to re-establish himself with the Sword; and yet you have given to every Man,
 “ even the meanest Cocker, the Right of Self-preservation as intire under Civil
 “ Government, as he had in a State of Nature: Upon my word, Sir, this is very
 “ hard and unequal Dealing, at once to abdicate your King, and at the same time
 “ complain of him for endeavouring to recover his Right.

A King go-
 vernal ac-
 cording to
 Law isto be
 honour’d
 and obey’d.

I have as honourable a Respect for a King as any man whatsoever, whilst he continues his Kingly Office, that is, governs according to the Laws of the Country; but when he shall degenerate, and break all his Sacred Oaths and Promises, and destroy the very Foundation of Government, which ought to be kept inviolable, then have I reason to turn my Love into Contempt, I having (as all men ought to have) a real and truer Love for my Country and its excellent Constitution, than for ten Thousand Kings who shall endeavour to destroy it. I have not revil’d the late King *James*, but spoken the Truth, as will appear by what follows. Were not his Creatures, as Papists and Popishly affected, put into Places of Trust by his means during his Brother’s Reign, and Parliaments prorogued and dissolved? And was he not believed by most of the Nation to be the Head of the Popish Plot? These are sufficient to prove that he conspir’d against the People and Government when Duke of *York*. I need not mention his Actions when King, they being fresh in every man’s Memory. Self-preservation is inherent to all men; but it does not follow that a King who has renounc’d his Throne, and abandoned the Kingdom, should endeavour to re-establish himself through a Sea of Blood, tho the Government is provided with another Governour. What Right hath a King to the Throne, but from the People? If you can make out your Doctrine of *Jure Divino*, then you may lay claim to such Rights for your King *James*, as neither Law nor Reason does or can allow.

“ 28. That God did originally institute Monarchy, I do say; but that we are
 “ commanded to obey Kings exclusively to all other Government, doth not follow,
 “ and I do not maintain.

If God did command or appoint the World to be governed by Kings, and that he hath not revok’d that Decree, then it does follow, that all other Government is sinful, because any thing contrary to the Appointment or Command of God is a Sin.

“ 29, 30. We have very little Account of the World from the Creation to
 “ the Flood; but by what appears we may safely conclude, that God then go-
 “ verned his People by a Paternal Monarchical Authority, and afterwards *Mel-
 “ chizedeck*, *Abraham*, and the Patriarchs, were great Kings and Princes; *Mo-
 “ ses* was King of *Jeshurun*, the Judges were so many Monarchs for the time
 “ being, and so all along the *Jews* were under a Monarchical Government, and
 “ therefore it was their fault to desire a King after the manner of the Nations,
 “ when they already had such a Regal Government as God thought fit to appoint.
 “ *Nimrod* is not the first Monarch, but the first mighty Hunter (or cruel Ty-
 “ rant) we meet with in Scripture: but consider I pray, whether the Dominion
 “ which God gave unto *Adam* did not make him the first and greatest Mo-
 “ narch upon Earth? and if so, this makes not a little for the *Jure Divino* Doc-
 “ trine (which Term of Art yet I profess my self not to be in love with)
 “ Doth not God himself tell us, *That by him Kings reign*? Doth he not say of
 “ *David*, *He hath exalted one chosen out of* (not by) *the People*? Doth he not
 “ call *Cyrus* (an Heathen King) his *Anointed*? And are we not told what hor-
 “ rid Wickedness was committed when there was no King in *Israel*? All these
 “ things shew that Monarchy is from God, and that there were Kings in the
 “ World before *Nimrod*; unless you understand by Kings only such wicked Per-
 “ sons as he was (as you seem to do) but tho this be true, yet ’tis not abso-
 “ lutely necessary that all the World should be govern’d by Kings, any more than
 “ that all Churches should be necessarily governed by Bishops, because ’tis cer-
 “ tain that Episcopacy was instituted in the Church by our Saviour and his A-
 “ postles.

Paternal
 Authority
 not Kingly.

I never till now heard, that a Paternal (which is a Fatherly) Authority was a Kingly Authority. It cannot be suppos’d that *Adam* was a King, upon the Authority which God gave him of having Dominion, unless it be understood to be over the Fish of the Sea, and the Fowl of the Air, and the Cattel, &c. nor because God bid him be fruitful, and multiply, and replenish the Earth, and subdue it, for there was nothing to subdue (except Beasts) he being the first Man of the Creation.

on. It can mean nothing else, than that he should have Power and Authority as Father over all his Children, and subdue them if they were rebellious in disobeying his Commands. But to proceed, after the Flood the twelve Sons of Jacob were Patriarchs, that is, chief of the Fathers, or chief head Prince of the Family; and such was *Abraham*, who is call'd a *Father* (not a King) of many Countries. The Judges were not Monarchs for the time being, but Rulers over the People, *Acts* 4. 8. With what face can you assert that the *Jews* were all along under a Monarchical Government, when 'tis certain there is not the least intimation thereof in Scripture? *Melchisedeck* was a Type of Christ, being both King and Priest; he was King of *Righteousness*, and King of *Salem*, which is King of Peace, without Father or Mother, having neither beginning of Days nor end of Life, *Heb.* 7. 2, 3. He was a Sovereign King and High Priest of the Church; and such was Christ, not using Authority like unto worldly Kings. *Deut.* 34. 10. speaking of *Moses*, There arise not a Prophet since in *Israel*, whom the Lord knew face to face; he being a very holy Man, and such a singular Prophet, and whom the Lord had such a respect for that he buried him himself, *ver.* 6. therefore it may with reason be concluded, that God gave him an Honour above other Prophets, by making him a King; and likewise *Melchisedeck* was a Type of Christ: But these Kings did not act by their own Will, but by the Will and Appointment of Almighty God. We read of no other King or Kings over the Children of *Israel*, till they desir'd a King. *Isa.* 44. 28. and 45. 1. Thus saith the Lord to his anointed *Cyrus*, He is my Shepherd, and shall perform all my Pleasure, whose right hand I have holden to subdue Nations before him. But doth God call any other Heathen Kings his Anointed, of which there was a great number during the time of the Children of *Israel*? Was not *St. Paul* by the Appointment of the Almighty one of the chief of the Apostles, tho he had been a violent Persecutor? And it may very well be thought that God by a particular Providence caus'd *Cyrus* to be made King, by whom he design'd to subdue Nations, and therefore may be very properly call'd his Chosen or Anointed; for in the first Year of his Reign he made a Decree to build the House of God, &c. *Ezra* 5. 13, 14. I do once more affirm, that *Nimrod* is the first King mention'd in Scripture, *Gen.* 10. 9. *Deut.* 16. 18, 19. The Children of *Israel* are commanded to make Judges and Officers throughout their Tribes (of which they had Twelve, *Gen.* 49. 28. *Mat.* 19. 28. which were Societies) And they shall judge the People with just Judgment, not wresting Judgment, or respecting Persons. This was the Government that God had appointed over the Children of *Israel*, which was by Judges and Prophets, not by Kings. But suppose these Judges were Kings, according to your Assertion, it follows that the People have right to elect their Kings by Divine Appointment. This makes not a little against the present pretended *Jure Divino* Doctrine; yet 'tis certain that there were many Kings by Divine Appointment in the time of the Children of *Israel*, but that they are so now I do absolutely deny. Pray, Sir, examine this Paragraph well, for I do positively charge you with wresting the Scriptures, and making very false Assertions: I require you to prove that Kings are by the Command or Appointment of Almighty God; which done, I'll prove such Government to be necessary, and that all others are sinful.

Jews not
always un-
der a Mo-
narchical
Govern-
ment.

“ 31. Some sort of Allegiance is due to him from whom we receive Protection; that it is the only Foundation of Allegiance, I do again deny.

The Coronation-Oath, and Oath of Allegiance, are mutual Ties of Protection, and of Obedience to the Laws; the King to obey the Laws in the Administration of Justice, and the People to obey the Laws in being passive to them. It is impossible for a King to govern with that Justice and Equity, but he will have some Enemies; and if the People do not protect him, how can he be safe in his Throne? There is a natural Allegiance due to all Men, that is, from one Man to another; and there is a Political Allegiance due to the King for protecting me in my Civil Rights, &c. and this is the only Cause and Foundation of Allegiance, to which I have spoken more largely in the 20 and 21 Replies.

Protection
and Obedi-
ence reci-
procally
binding.

“ 32. The Law indeed indemnifies the People for obeying an Usurper (or a King only *de facto*) but this supposes a Fault, which without this Law was severely punishable: besides, it doth not say that they shall assist the King *de facto* in his Wars, &c. but only takes care to secure them if they do so.

What Fault can there be supposed in obeying or assisting an Usurper or King *de facto*, when the Law does not punish, but allows of such Obedience and Assistance? Treason cannot be committed against a King out of possession of the Throne, but it is Treason to be aiding or assisting towards his Restoration, which is conspiring against

No fault in
obeying a
King *de
facto*.

gainst the King *de facto*: And as long as a King in possession (tho not by regular Descent) governs according to the Laws of the Land, he ought to be assisted, and may require his Subjects Assistance in his Wars. After all the Clamour and Noise that hath been made about the Obligation of the Oath of Allegiance, it appears by this that it is only Conditional, and that it is dissolv'd whenever the King ceases to Govern or Reign.

“ 33. As for your Aphorism, the Safety of the People, &c. I do not dispute the truth of it: But whether the way to observe this Supreme Law, be to violate the Right of Succession, I do, and so will you, I believe, upon second thoughts very much question.

Divine
Law of
Succession,
if any, binds
every
where.

The Divine Law is the same in one Country as in another. I would fain know whether the Law that is made in *France*, That no Woman shall inherit the Throne, and the turning out the King of *Portugal*, and setting up his younger Brother who was more fit to govern (with many like Instances that may be given) be against this Divine Law; and whether or no *England* for its Security may not exclude the next Heir to the Crown, or turn out Him that shall be upon the Throne, if he be incapable, or will not govern according to the Laws of the Land? I do affirm that there is no other Right of Succession than what proceeded from the People; and that this was given to the King for the time being, and to his Heirs, upon condition that He and they should govern according to the Laws and Customs of the Country. For to what purpose were these Rules and Bounds of Government given, but that he should be oblig'd to govern according to them, and not according to his Will and Pleasure? What an Essay would it be upon our Reason, to think that our Ancestors who made Kings were such Fools or Madmen, as not to reserve to themselves a Power of turning them out if they endeavour'd to destroy them, or act contrary to those Rules they had set them? If they had no such Intention or Reserve, yet it follows they had such Power, and that it still remains, because there neither was, nor is any Law to the contrary; and this has been several times executed, as may be seen in the 18th and 19th Reply.

“ 34. The Kings of *England* (as all other Kings) came to their Crowns by Divine Appointment, and are only recogniz'd or receiv'd to their Rights by the People. The Prerogatives and Authorities of the Crown are given to the King for the time being, only to prevent what Mischiefs might otherwise ensue to the Community.

No Kings
now by im-
mediate
Divine ap-
pointment.

Sir, You are pleas'd to take no notice of the latter part of my 29th Query, which is as distinct as any one, and begins at the ending of a full Point, tho not in a Break like the rest; which being very proper in answer to this Assertion of yours, I shall here insert it, viz. If Kings are by Divine Appointment, is it not rational to believe that God would have commanded all the World to be govern'd by Kings, or at least the Christian World, and have given them a Law to govern by? The Prerogatives and Authorities of the Crown are nothing but the Bounds and Supports of the Regal Authority, and are given to the King for the time being; but if he exceeds those Bounds, it is no Prerogative or Authority, and then most certain the People who gave him his Authority, have Authority to take it away. Now I would fain know what your *Jure Divino* King would signifie more than a stalking Horse, when his Prerogatives and Authorities are taken from him (for you allow them to be in the People) for I am sure this is the only way to prevent the Mischiefs which would otherwise ensue to the Community from a false and destructive Governor. It cannot be prov'd that there hath been a King by Divine Appointment for these many Ages last past: If they were so, then they would be set up by the immediate Appointment of Almighty God, as over the Children of *Israel*; or else the Scripture would have said, that their Issue should be Kings (and then you must prove a right Line from that Issue, which is impossible to be prov'd) or that the World should be govern'd by Kings. Since God Almighty hath no where commanded or appointed the World to be govern'd by Kings, it absolutely follows, that 'tis the Peoples Right to chuse their Kings and Governors; and then what greater Nonsense can there be, than to affirm the People have not Right to punish their Kings, by turning them out of the Throne for not administering of Justice?

“ 35. In the first Ages of Christianity, the Right of Succession was not a settled Title to the Empire; neither were the Christians of that time bound by Oaths of Allegiance and Supremacy: And this is the reason most probably why our Saviour and his Apostles only warn'd them in general to obey the Emperors who were then in Power, without enquiring into their Right and Title.

Altho

Altho in the first Ages of Christianity the *Roman* Emperors were seldom by a Hereditary Right, and the Christians were not bound to them by Oaths of Allegiance and Supremacy, yet the Commands of our Saviour and his Apostles for their Obedience to those Heathen Princes under the pain of Damnation, were more binding than any Oath those Princes could have requir'd of them.

“ 36. As for your Challenge, I do undertake to prove the Doctrine of Passive Obedience, and unlawfulness of deposing of Kings, by Scripture, Law and Reason, when you shall think fit to make any material Objections against them; but yet when I have done this, I am (I assure you) and shall be as averse as you from having my Throat cut either by *French* or *Irish* Dragoons. As for the *Jure Divino* Doctrine (in your sense) I do not undertake for it.

Sir, You undertake to prove the Doctrine of Passive Obedience, why did you not join *Jure Divino* to it (which you have strove hard to prove in your 29th Answer, and have asserted in your 34th Answer) for they used to go together, during the time of the Children of *Israel* when God set up their Kings? but since he hath ceas'd to set up or appoint Kings, *Passive Obedience* and *Jure Divino* do cease also. In your 6th Answer you have asserted that which is diametrically opposite to this Answer of yours, viz. for you there assert, That *he that resists* (meaning the King) *does not only resist the Usurpations of Men, but the Ordinance of God, tho he were a Claudius or a Nero*, who were two great Tyrants; especially *Nero*, who I believe cannot be parallel'd. And you likewise there declare, *that absolute and unconditionate Obedience is due to the King as God's Vicegerent*; What is this but asserting Passive Obedience in the strictest sense imaginable? which Doctrine if true, and the King destroy'd the People by Hundreds and Thousands, they ought not to resist; for that God would punish him himself, as he did the Kings over the Children of *Israel*. But where have we had an Example or Examples for these several hundred Years last past, that God hath sent his visible Judgments upon wicked Kings, whereof the World hath been pester'd with a great many? I say, if God should send his private Judgments upon Kings, or damn them for their wicked Government (which we ought not to judg) what would this signify by way of Example to other Kings? What a notorious Hypocrite are you become, to preach up Passive Obedience to others, yet at the same time assure me, that you are and shall be as averse from having your Throat cut as I am? If so, then you are for resisting any Man or Men whatsoever who shall endeavour to take away your Life contrary to Law; and you could not but understand these were my Sentiments, by my 6th, 7th, 8th and 10th Paragraphs. I would desire you, or any Man else, to reconcile these Contrarieties together if you can. As for the unlawfulness of deposing Kings (as you call it) I need say no more, having already spoke sufficient in Answer to your 16th Apothegm. But pray, Sir, what do you mean by not undertaking for the *Jure Divino* Doctrine in my sense, when 'tis plain I have not asserted any such thing, in my Challenge to the whole World to prove that Doctrine?

“ 37. At last you turn Conjurer, but you see that your Charms have had no operation upon me; I am still unsatisfy'd with your Assertions and Propositions, and I doubt not but that all honest Men who shall impartially judg betwixt us will be so too. I am equally against Rebellion in the State, and Schism in the Church: I am far from sowing Dissensions amongst the People, or persuading any Subject from his true Allegiance: Let those who are guilty of this double Sin, beware lest they be doubly punish'd with the Judgments of God in this World, and Damnation in the World to come.

If your Answer be your Sentiments (which no body ought to doubt of) there is great reason to believe that your Conversation amongst Mankind is to the same purpose, and then you are guilty of this double Sin of sowing Dissensions amongst the People, and dissuading their Majesties Subjects from their true Allegiance. Now let all impartial Men that read this Book judg between us two.

“ 38. Thus, Sir, you have a short, and I hope a direct Answer to your Propositions; if you shall think fit to print it, you have the Consent of *N. N.*

I challenge you, and all other Men that do still persist in these inhumane and damnable Principles, to answer what hath been said: I could wish that you and they would consult together, that the strongest Arguments that can be said for your Doctrine may be there inserted, which if short, and sent to my Bookseller, I do promise once more to defend what I have asserted, and print the Answer that shall be sent, with my Defence annexed to it. But I hope that you and all other Men that have such erroneous and destructive Principles, will upon the

Jure Divino and Passive Obedience ought to go together.

The Author's Conclusion.

whole examine well what hath been said, and like good Christians acknowledg your Faults, and not add sin to sin in justifying your selves in such an ill Principle; and in so doing you may be a means of adding Happiness to this Golden Age: And that Peace and Plenty, Justice and Judgment may flow in our Streets as long as the Sun and Moon endures, is the desire of him who wisheth an Eternal Happiness to this our Israel.

A. A.

POLITICAL APHORISMS:

OR, THE

True Maxims of Government display'd.

By way of Challenge to Dr. William Sherlock, and Ten other New Dissenters; and recommended as proper to be read by all Protestant Jacobites.

The P R E F A C E.

AFTER all the signal Deliverances God hath vouchsafed to these British Islands, and the many eminent Appearances of Divine Providence in our late happy Revolution even to this day, one would think no Protestant should repine at this happy and advantageous Change, from an Arbitrary to a Legal Monarchy, but reckon it his Felicity to have liv'd to this day, to see the Imperial Crown of England worn by a Protestant King and Queen: an Happiness which our Fathers wish'd and long'd for in King Charles the First's and Second's Time, but could not obtain; the evil Consequence whereof this Nation hath sufficiently felt. Therefore I may well say, O thrice happy England, didst thou know thy happiness, and hadst an Heart to be thankful for it! Who could have thought, that notwithstanding the visible hand of God in this unparallel'd Revolution, we should still have amongst us a Korah, a Dathan, and an Abiram, a murmuring still in our Streets? Our Forefathers never bought their Liberty at so cheap a rate as we have done now, which makes it so much despis'd and slighted at present, as if Liberty could never be good without wading through a Sea of Blood to obtain it. We commend our Forefathers for standing up for their Rights and Privileges (without which we should have been Slaves to this day) and yet that we should condemn one another for the same thing, tho' our Religion, which is infinitely more dear to us than a few worldly Liberties, lay at stake, is such an intolerable Folly, that succeeding Ages will hardly give credit to. But what is more strange is, that some Protestants are for the Restoration of the late King James, with the young Impostor; the Consequence whereof can be nothing less than Slavery, and the total Subversion of the Protestant Religion in England, as well as the endangering it throughout the World. But that the World may see what rare Notions of Civil Government our Murmurers have, I shall here set down some of the Sayings of one of their mighty Pillars of Passive Obedience, Dr. William Sherlock, as they are in his Case of Resistance of the Supreme Powers.

No Man wants Authority (says the Doctor, pag. 59.) to defend his Life against him who has no Authority to take it away; but yet he tells you most learnedly, pag. 113. that The Prince is the Powers or Authority, not the Law: And in pag. 198. that The King receives not his Sovereign Authority from the Law: And in pag. 89.

89. he says, that there could be no greater nor more absolute Tyrants than the Roman Emperors were, and yet they had no Power over the meanest Christian, but by an express Commission from Heaven: And he tells you further, pag. 116. that when we resist our Prince, we resist the Ordinance, Constitution and Appointment of God. What invincible Arguments are these for Passive Obedience, which makes God the Author of all the Outrages, Cruelties, Rapine and Bloodshed that have been committed in the World by Sovereign Princes! But I think the Doctor has taken the right way (if there be any) to establish the Doctrine of Passive Obedience without reserve. St. Peter exhorted the Christians to submit to every Ordinance of Man for the Lord's sake; which plainly signifies (says the ingenious Doctor, pag. 146.) that whatever hand Men may have in modelling Civil Governments, yet it is the Ordinance of God, and Princes receive their Power from him. What a rare Argument is this for Tyranny, Oppression, and Idolatry, &c. For according to the Doctor's Notion, if the Legislative Authority of a Nation should abolish the Christian Religion, and set up Paganism, Mahometanism, or Popery, and make never such unjust and tyrannical Laws, yet it would be the Ordinance of God. Since I can hardly find throughout all the Doctor's Book he knows what any part of Civil Government is, and lest he should take an establish'd Religion to be no part thereof, I shall make bold to tell him, that when a Religion is establish'd by the Legislative Authority of any Nation, it becomes part of the Civil Government, and is to be defended and supported by the Administrator of that Government. The Doctor bath many more as rare Arguments as these, but for brevity sake I omit them, these being sufficient to shew upon what Rock this sort of Men build their Notions of Passive Obedience.

I challenge all the New Dissenters in England, and all the Conformists who have sworn Allegiance to their Majesties only as King and Queen de facto, but more particularly Dr. Will. Sherlock, Shadrach Cook, John Leke, Dr. Francis Thomson, — Person, Dr. — Audley, Will. Gefford of Suffolk, John Hart of Taunton, — Wood, — Cuff, John Norris of Cambridg, Richard Stafford, and the Author of the History of Passive Obedience, together with Sir R. L'Estrange and all his Pupils, to answer the following Tract.

The Non-swearers challeng'd to answer this Treatise.

I desire these Learned Men to resolve me this Case of Conscience, Whether or no those who join'd with or assisted the Prince of Orange upon his arrival, are not guilty of Rebellion? and whether or no those Divines and Laicks who invited him over, are not more guilty of Rebellion (according to the Doctrine of Passive Obedience) without reserve, as being the first Cause thereof, than they that join'd with him upon his first arrival? And whether upon the Bishops refusing to disown their inviting him over, it does not follow that they did invite him over; and upon their refusing to subscribe to the form of an Abhorrence of the Invitation, it did not plainly imply, that they disown'd the Doctrine of Passive Obedience, and allow'd the resisting of Arbitrary Power? and when they desir'd the Prince of Orange (our present King) to take upon him the Administration of the Government, it did not imply that King James had deserted the Government, and that the Throne was thereby become vacant?

The reason why I take this unusual way of writing, by challenging particular Men, is, because in a general Challenge no Man would reckon himself concern'd: for what is every ones business, is no bodies business; and because the Dissenters from the present Government do assert, that the late King James is de jure still, and that Obedience is due to him during his Life; and that Dr. Sherlock and many others can prove the Doctrine of Passive Obedience without reserve to be a true Doctrine, and they hope to bear it preach'd with as much Zeal as ever. These are the Reasons that induc'd me to challenge particular Men, and to write this Tract, that there might be no plea for the Resurrection of this absurd, nonsensical, sheepish, slavish, inhumane, bow-string, Doctrine which one sucks in with his Milk; another he takes it to be the distinguishing Doctrine of the Church; and another believes it, because it has been told him from the Pulpit; and a fourth, because a great many ingenious and learned Men have declar'd it to be a true Doctrine. Thus we become wise by Tradition and Example, having an implicit Faith to believe whatever our Guides declare to be the Doctrine of the Gospel, tho it be never so contrary to the Justice and Goodness of Almighty God, and to undeniable Reason. If the Church in its Reformation from Popery had retain'd Transubstantiation, no doubt but we should have had as many and as zealous Asserters of that Doctrine as of Passive Obedience without reserve, the one being as false as the other is impossible. I remember the saying of a Passive Obedience Man, If an Angel (says he) came down from Heaven, and preach'd any other Doctrine than Passive Obedience as it was lately taught us, I would not believe him. O what a commendable thing is it to be true to ones Principle, tho it be never

Why this particular Challenge is made.

ver so ridiculous or false, or tends never so much to the enslaving or destruction of our Country!

I have hitherto (says Cato) fought for my Country's Liberty, and for my own; and only that I might live free among Free-men. I wish that every English Man could say the same, or at least that he had done something for the good of his Country; which is the Ambition of

T. H.

Political Aphorisms: Or the true Maxims of Government display'd.

No Form of
Govern-
ment Jure
Divino.

IT is evident that no Rule or Form of Government is prescrib'd by the Law of God and Nature; for then it would be both immutable, and the self-same in all Countries. For the better proof whereof, it is necessary to shew how far Government proceeds from Nature, and how far from Man; to wit, that Man is sociable, and inclin'd to live together in Company, which proceeds from Nature, and consequently also from God that is the Author of Nature: from whence do proceed all private Houses, then Villages, then Towns, then Castles, then Cities, and then Kingdoms and Commonwealths, as Aristotle saith in his Book of Politicks. Tho Government in like manner, and Jurisdiction of Magistrates, which does follow necessarily upon this living together in Company, be also of Nature; yet the particular form or manner of this or that Government, in this or that Fashion; as to have many Governors, few or one, and those either Kings, Dukes, Earls, or the like; or that they should have this or that Authority more or less, for longer or shorter time; or be by Succession, or Election themselves and their Children, or next in Blood: All these things, I say, are not by Law Natural or Divine (for then, as hath been said, they should be all one in all Countries and Nations) for God said, *Gen. 2. 18. It is not good that Man should be alone, I will make him an Helpmeet, or Assistant like unto himself.* Wherefore as this first Society of our first Parents was of God, and for so great purpose as the one to help and assist, not destroy or enslave the other: So all other Societies, as proceeding from this first, stand upon the same ground of God's Ordinance, for the self-same end of Man's Utility or Happiness; all which is confirm'd by the Consent and Use of all Nations thro'out the World; which general Consent Cicero calls *Ipsius vocem Naturæ*, the Voice of Nature her self. For there was never yet any Nation found either of antient times, or of later days, by the discovery of the Indies or elsewhere, where Men living together, had not some kind of Magistrate or Superior to govern them; which evidently declares, that Magistracy is also from Nature, and from God that created Nature, tho not in this or that particular Form: Which Point our Civil Law doth prove in like manner, in the beginning of our Digest, *de origine Juris civilis & omnium Magistratum*, of the beginning of the Civil Law, and of all Magistrates, which beginning is refer'd to the first Principle of natural Instinct, and God's Institution. Tho Commonwealths and Government of the same by Magistrates are of Nature; yet the particular Forms or manner of Governments are not of Nature, but are left unto every Nation and Country to chuse what Form of Government they like best, and think most fit for the Nature and Conditions of the People.

All equal
by Nature.

By the State of Nature we are all equal, there being no Superiority or Subordination one above another. There can be nothing more rational, than that Creatures of the same Species and Rank promiscuously born to all the same Advantages of Nature, and the use of the same Faculties, should also be equal one amongst another, unless God by any manifest Declaration of his Will had set one above another, and given him Superiority or Sovereignty. Were it not for the corruption and viciousness of degenerate Men, there would be no need of any other State; for every one in that State being both Judg and Executioner of the Law of Nature, which is

to punish according to the Offence committed, Men being partial to themselves, Passion and Revenge is very apt to carry them too far in their own Cases, as well as Negligence and Unconcernedness make them too remiss in other mens. This makes every one willingly give up his single Power of punishing to one alone, or more, as they shall think most convenient, and by such Rules as the Community, or those authoriz'd by them to that purpose, shall agree on, with Intention in every one the better to preserve himself, his Liberty and Property. What is it but Flattery to the natural Vanity and Ambition of Men, too apt of it self to grow and increase with the Possession of any Power, for any to persuade those Monarchs in Authority, that they may do what they please, because they have Authority to do more than others? since rational Creatures cannot be supposed, when free, to put themselves into Subjection to another for their own harms, which were to put themselves in a worse Condition than in the State of Nature, wherein they had liberty to defend their Lives and Properties against the Invasions of any man or men whatsoever; whereas by giving up themselves to the absolute Arbitrary Power of any man, they have disarm'd themselves, and arm'd him to make a Prey of them when he pleases.

I have been the longer in speaking of the State of Nature, and the natural Instinct to Society and Government, for that it is the Fountain of all the rest that ensueth in a Commonwealth; but if we respect God and Nature, as well might all the diversity of Governments, which have been, and now are in the World, have follow'd one Law, as so different, but that neither God, nor Nature (which is from God) hath prescrib'd any of those particular Forms, but concurrerth or permitterth such which the Commonwealth appoints. Can any man say that God and Nature did not concur as well with *Italy* when it had but one Prince, as now when it hath so many; and the like with *Germany*, and also with *Switzerland*, which was once one Commonwealth under the Dukes and Marquesses of *Austria*, and now are divided into thirteen Cantons or Commonwealths, under popular Magistrates of their own? *England* also was first a Monarchy under the *Britans*, and then a Province under the *Romans*, and after that divided into seven Kingdoms at once, under the *Saxons*, and after them of the *Danes*, and then the *Normans*, and then the *French*, and now a Monarchy again under the *English*; and all this by God's Providence and Permission, who suffer'd his own peculiar People the Jews to be under divers manner of Governments at divers times; at first under Patriarchs, *Abraham*, *Isaac* and *Jacob*; then under Captains, as *Moses*, *Joshua*, and the like; then under Judges, as *Othniel*, *Ehud* and *Gideon*; then under High Priests, as *Eli* and *Samuel*; then under Kings, as *Saul*, *David*, and the rest; then under Captains and High Priests again, as *Zorobabel*, *Judas Maccabeus*, and his Brethren; until the Government was lastly taken from them, and they brought under the Power of the *Romans*. And last of all that God does concur with what Magistrate or Magistrates the Community thinks fit to appoint, is plain by the Testimony of holy Scripture, as when God said to *Solomon*, *By me Kings rule, and Nobles, even all the Judges of the Earth*, Prov. 8. 16. that is, by his Permission they govern, tho chosen by the People: and *St. Paul* to the *Romans* avoucheth, that Authority is not but of God; and therefore, *be that resisteth Authority, resisteth God*, Rom. 13. which is to be understood of Authority, Power and Jurisdiction in it self according to the Laws of every Country.

Society
and Go-
vernment
Natural.

All Politick Societies began from a voluntary Union and mutual Agreement of Men, freely acting in the choice of their Governours, and Forms of Government.

Mutual
Agree-
ment the
Foundation
of Govern-
ment.

All Kings receive their Royal Dignity from the Community, by whom they are made the Superior Minister and Ruler of the People.

Aristotle, *Cicero*, *Augustin*, *Fortescue*, and all other Politicians agree, that Kingdoms and Commonwealths were existent before Kings: for there must be a Kingdom and Society of men to govern, before there can be a King elected by them to govern them; and those Kingdoms and Societies of men had (for the most part) some Common Laws of their own free choice, by which they were govern'd, before they had Kings; which Laws they swore their Kings to observe, before they would crown or admit them to the Government, as is evident by the Coronation Oaths of all Christian and Pagan Kings continu'd to this Day.

The Safety of the People is the supremest Law; and what they by common Consent have enacted, only for the Publick Safety, they may, without any Obstacle, alter when things require it, by the like common Consent.

Safety of
the People
the Su-
preme
The Law.

The lawful Power of making Laws to command whole Politick Societies of men, belongeth so properly unto the same intire Societies, that for any Prince or Potentate, of what kind soever upon Earth, to exercise the same of himself, and not by expresse Commission immediately and personally receiv'd from God, or else by Authority deriv'd at first from their Consent upon whose Persons they impose Laws, it is no better than mere Tyranny. *Laws they are not therefore, which publick Approbation hath not made so.* Hooker's Eccl. Pol. l. 1. §. 10.

Whosoever (says Aristotle) is govern'd by a Man without a Law, is govern'd by a Man, and by a Beast.

As every Man, in the delivery of the Gift of his own Goods, may impose what Covenant or Condition he pleases; and every Man is Moderator and Disposer of his own Estate: So in the voluntary Institution of a King, and Royal Power, it is lawful for the People, submitting themselves, to prescribe the King and his Successors what Law they please, so as it be not unreasonable and unjust, and directly against the Rights of a Supreme Governour.

No man
born an
Absolute
King.

No man can be born an Absolute King; no man can be a King by himself; no King can reign without the People. Whereas on the contrary, the People may both be, and are by themselves, and are in time before a King. By which it appears that all Kings were and are constituted by the People, because by the Law of Nature there is no Superiority one above another; and God has no where commanded the World, or any part thereof, to be govern'd by this or that Form, or by this or that Person: therefore all Superiority and Authority must and does proceed from the People, since, by the Law of God and Nature, there is no Superiority one above another.

Aristotle saith, That the whole Kingdom, City, or Family, is more excellent, and to be preferred before any Part or Member thereof.

Succession was tolerated (and appointed in the World) to avoid Competition, and Interregnum, and other inconveniences of Election.

People
the Foun-
tain of Go-
vernment.

'Tis plain, from what hath been said, that all Government proceeds from the People. Now I will prove that they have Authority to put back the next Inheritors to Government, when unfit or incapable to govern: And also to dispossess them that are in lawful Possession, if they fulfil not the Laws and Conditions by which, and for which their Dignities were given them. And when it is done upon just and urgent Causes, and by publick Authority of the whole Body, the Justice thereof is plain; as when the Prince shall endeavour to establish Idolatry, contrary to the Laws of the Land; or any Religion which is repugnant to the Scripture, as Popery, &c. or to destroy the People, or make them Slaves to his Tyrannical Will and Pleasure: For as the whole Body is of more Authority than the Head, and may cure it when out of order; so may the Weal-publick cure or purge their Heads, when they are pernicious or destructive to the Body Politick; seeing that a Body Civil may have divers Heads by Succession or Election, and cannot be bound to one, as a Body Natural is: which Body Natural, if it had Ability to cut off its aking or sickly Head, and take another, I doubt not but it would do it; and that all men would confess it had Authority sufficient, and Reason so to do, rather than the other Parts should perish, or live in Pain and continual Torment. Thus may the Body Politick chuse another Head and Governor in the room of its destructive one; which hath been done for many Ages, and God hath wonderfully concurr'd therein (for the most part) with such Judicial Acts of the Commonwealth against their Evil Princes; not only prospering the same, but by giving them commonly some notable Successor in place of the depriv'd, thereby both to justify the Fact, and remedy the Fault of him that went before. First, King Saul was slain by the Philistines by God's Appointment, for not fulfilling the Law and Limits prescrib'd unto him. Ammon was lawful King also, yet was he slain, for that he walked not in the way prescrib'd him by God, 2 King. 21. and David and Josiah were made Kings in their rooms, who were two most excellent Princes. Shalum, Pekabiah, and Pekah, three wicked and Idolatrous Kings of Israel, were, by God's just judgment, slain one after another. And all the Kings of Israel, who violated the Covenant and Conditions annex'd to their Crown, did, for the most part, lose their Lives, and underwent the utter Extirpation of their Posterities from the Crown. Rehoboam for only threatning to oppress the People, was deserted by them, who chose Jeroboam his Servant in his stead, which was approv'd by God.

If I should instance all the Kings over the Children of Israel whom God permitted and appointed to be slain, and those that were carried away Captive by the Heathens for

for their unjust Government, I should be too copious. But I will leave the *Hebrews*, and give several Examples of the depriving of Evil Princes of the Government, in *France, Spain, Portugal, &c.* and last of all in *Scotland and England*: and of the Happiness and Prosperity that did attend those Kingdoms upon such Acts; which can be imputed to nothing but the Blessing of Almighty God which attended those Proceedings; and by consequence he approv'd thereof, and does approve of such Acts.

Changes in
the Succession of
Kingdoms.

There have been two great Changes made of the Royal Line in *France*; the first from *Pharamond* to the Line of *Pepin*, the second from *Pepin* to *Hugh Capet*. *Childe-ric* the Third was depriv'd for his Evil Government, and *Pepin* was chosen King in his stead, whose Posterity reign'd for many years after him, and were brave Kings, as History doth testify.

In France.

Lewis the Third, and *Charles* surnam'd *Le Gros*, were both depriv'd by the States of *France* for their ill Government, and such as were thought more worthy appointed in their stead. All *French* Histories do attribute to these great Changes that have been made by the People, the Prosperity and Greatness of their present Kingdom. *Henry* the Third, before he was King of *France*, was chosen King of *Poland*; but for departing thence without leave, and not returning at his Day, was depriv'd by publick Act of Parliament. If I were to mention all the Acts of this nature throughout *Europe*, I should be too tedious, and therefore will mention only some few.

In *Spain*, *Flaveo Suintila* was depriv'd for his evil Government, together with all his Posterity, and *Sissinando* chosen in his room.

In Spain.

Don Pedro, surnam'd the *Cruel*, injuriously proceeding with his Subjects, they resolv'd to dethrone him; and to that intent sent for a Bastard Brother of his, nam'd *Henry*, who liv'd in *France*, desiring him to come with some *French* men to assist them in that Act, and take the Crown upon himself. Which he did by the help of the *Spaniards*, and slew him in Fight hand to hand, and so enjoy'd the Crown, as doth his Offspring to this Day. This *Henry* was a most excellent King, as well for his Courage in War, as for his other brave Qualities.

In *Portugal*, *Don Sanco* the Second was depriv'd by the universal Consent of all *Portugal*, and *Don Alanso* his Brother set up: Who, amongst other great Exploits, was the first that set *Portugal* free from all Subjection, Dependance, and Homage to the Kingdom of *Castile*. And his Son, who was his Successor, built and founded above forty great Towns in *Portugal*: Who was likewise a most rare Prince, and his Offspring ruleth there to this Day.

In Portu-
gal.

Cisternus King of *Denmark*, for his intolerable Cruelty, was depriv'd, and his Wife and three Children disinherited, and his Uncle *Frederick* chosen King in his stead, whose Offspring remaineth in the Crown.

In Den-
mark.

In *Scotland*, the Nobility and Gentry, &c. took Arms against *Durflus* their King for his intolerable Cruelty, and slew him and his Confederates in Battel, and put by his Sons lest they should imitate their Father's Vices; and elected *Even* his Brother King, who leaving a Bastard Son, the Kingdom was confer'd on him. *Crathy Cintbus* having surpriz'd and slain *Donald* for his Tyranny, he was unanimously elected King. *Ethus* was for his Evil Government depriv'd, and *Gregory* made King in his stead. *Buchanan*, a *Scotchman*, speaking of his Country, saith, That it was free from the beginning, created it self Kings upon this very Law, that the Empire being conferred on them by the Suffrages of the People, if the Matter required it, they might take it away by the same Suffrages. Of which Law many Footsteps have remain'd even to our Age.

In Scot-
land.

I will end this Narration with Examples out of *England*, before and since the Conquest. *Archigallo*, *Emerian*, *Vortigern*, *Sigibert* King of the *West Saxons*, *Beornred*, and *Alured* King of *Northumberland*, were all depriv'd of their Thrones for their evil Government, and such as were thought more worthy prefer'd in their stead. King *Edwin* being depriv'd for his unjust Government, the Crown was given to his Brother *Edgar*, who was one of the rarest Princes that the World had in his Time, both for Peace and War, Justice, Piety and Valour: He kept a Navy (saith *Stow*) of three thousand and six hundred Ships, distributed in divers Parts for Defence of the Realm; and he built and restor'd forty seven Monasteries at his own Charge, &c.

In Eng-
land.
Several
Instances.

The Crown of *England* hath been altered by the Community, and settled upon those from whom they expected more Justice than from the right Heirs; witness the electing and crowning of *Edelwald* and *Casibelian*, *Egbert* not next in Blood, *Edward*, *Adalston*, and *Harold*, who were all illegitimate; and *Edred*, against the

Right

Right of his two Nephews, *Canutus* a Foreigner, and *Hardicknute*, without Title, and *Edward the Confessor*, against the Right Heirs.

After the
Conquest.

After the Conquest, Anno 1087. *Robert* the elder Brother was put aside, and *William Rufus*, the third Son of *William* the Conqueror, was elected: After whose Death, *Henry* the First, his younger Brother (tho not next Heir) was chosen by the People, not summon'd by Writ. After the Death of *Henry* the First, *Stephen* was chosen King against the Right of *Maud*, the Daughter of *Henry* the First. After his Death *Henry* the Second was admitted King, against the Right of his Mother *Maud*. After the Death of *Richard* the first, King *John* (Earl of *Morton*) was elected, and *Arthur* the right Heir disinherited. *Henry* the Third was chosen against the Right of *Eleanor* Prince *Arthur*'s Sister. At the Death of *Henry* the Third, the States of the Kingdom met and settled the Government, by appointing Officers, and what else was necessary for the Defence of the Realm: and *Edward* the Fourth was set up by the People during the Life of *Henry* the Sixth.

Now it is plain, that the Kings and Queens of *England*, ever since *William Rufus*'s Time, have proceeded from those who were set up by the People against the next Heirs. King *Edward* the Second, *Richard* the Second, and *Richard* the Third, were, for not governing according to the Laws of the Land, depriv'd of the Government; and *Edward* the Third, and *Henry* the Fourth and Seventh, were prefer'd in their rooms, who were most rare and valiant Princes, who have done many important Acts in this Kingdom, and have raised many Families to Nobility, put down others, changed States both abroad and at home, altered the Course of Descent in the Blood Royal, and the like; which was unjust, and is void at this day, if the Changes and Deprivations of the former Kings were unlawful, and consequently all those Princes that have succeeded them (who yet never fail'd of a constant Lineal Descent) were Usurpers; and those that do pretend to the Crown of *England* at this day, have no Title at all (which was yet never deny'd) for that from those men they descended, who were put in the place of the aforementioned, deprived by the Commonwealth. This is, and hath been the Custom and Practice of all Kingdoms and Commonwealths, to deprive their Princes for their evil Government: and that God hath, and does concur with the same, is plain from the Examples before-mentioned, of the Prosperity and Happiness that hath attended those Acts.

The Case of
K. John.

The Barons, Prelates, and Commons took a solemn Oath, That if King *John* should refuse to grant and confirm their Laws and Liberties, they would wage War against him so long, and withdraw themselves from their Allegiance to him, until he should confirm to them by a Charter, ratified with his Seal, all things which they requir'd; and that if the King should afterwards peradventure recede from his Oath, as they verily believ'd he would by reason of his double Dealing, they would forthwith, by seizing on his Castles, compel him to give Satisfaction. He afterwards breaking his Oath and Promise, the Barons said, *What shall we do with this wicked King? if we let him thus alone, he will destroy us and our People; it is expedient therefore that he should be expell'd the Throne, we will not have him any longer to reign over us:* and accordingly they sent for *Lewis* the Prince of *France* to be their King, and swore Fealty to him; but they afterwards discovering that he had sworn he would oppress them and extirpate all their Kindred, they rejected him, and set up *Henry* the Third.

of Ed. II.

The Bishops of *Hereford*, *Lincoln*, and several Earls, Barons and Knights for each County, being deputed to go to *Edward* II. and demand a Surrender of the Crown, said to him, *That unless he did of himself renounce his Crown and Scepter, the People would neither endure him, nor any of his Children, as their Sovereign; but disclaiming all Homage and Fealty, would elect some other for King, who should not be of the Blood:* upon which the King resign'd his Crown, &c. That by the common Usage of *England*, which is the common Law of *England*, Kings may be depriv'd for evil Government, and others set up in their stead, is plain from the foregoing Examples.

Richard the First being taken Prisoner by the Emperor in his Return from the Holy Land, it was decreed, that the fourth part of all that Year's Rents, and of all the Movables as well of the Clergy as of the Laity, and all the Wools of the Abbots of the Order of *Cisterians* and of *Sempbringham*, and all the Gold and Silver Chalice and Treasure of all Churches, should be paid in towards the Ransom of the King, which was done accordingly. If all this was given for the Liberty of one Man, certainly much more ought to be given now, when all our Liberties and Properties,

Properties, and even our Religion too lies at stake, if Necessity requir'd it, which God forbid.

By the Law of Nature, *Salus Populi*, the Welfare of the People, is both the supreme and first Law in Government, and the scope and end of all other Laws, and of Government it self; because the Safety of the Body Politick is ever to be prefer'd before any one Person whatsoever.

Safety of the People the Supreme Law.

No human Law is binding which is contrary to the Scripture, or the general Laws of Nature.

Religion doth not overthrow Nature, whose chiefest Principle is to preserve her self; and God doth not countenance Sin in the greatest, but rewards the Punisher, witness *Jehu*, &c.

The End for which Men enter into Society, is not barely to live, but to live happily, answerable to the excellency of their Kind, which Happiness is not to be had out of Society.

Ends of Society.

All Commonwealths are in a State of Nature one with another.

As Magistrates were design'd for a general Good, so the Obligation to them must be understood so, as to be still in subordination to the main End; for the reason of all Law and Government is the Publick Good.

Government being for the benefit of the Govern'd, and not for the sole advantage of the Governors, but only for theirs with the rest, as they make a part of that Politick Body, each of those Parts and Members are taken care of, and directed in their peculiar Function for the Good of the whole by the Laws of the Society.

The End of Government being the preservation of all as much as may be, even the Guilty are to be spar'd where it can prove no prejudice to the Innocent.

"The publick Power of all Society is above every Soul contain'd in the same Society; and the principal use of that Power is to give Laws to all that are under it: which Laws in such cases we must obey, unless there be reason shew'd which may necessarily inforce that the Law of Reason, or of God, doth injoin the contrary. *Hooker Eccl. Pol. l. 1. §. 10.*

Protection the End of Government.

T. Cicero saith, "There is one Nature of all Men; that even Nature it self prescribes this, that a Man ought to take care of a Man whoever he be, even for this very Cause that he is a Man. If otherwise, all human Consociation must necessarily be dissolv'd: therefore there are two Foundations of Justice; first, that no hurt be done to any; next, that the Profit of all, if it can be done, be advanc'd.

That all Magistrates and Governors do proceed from the People, is plain from the following Examples in Scripture; *Deut. 16. 18, 19.* the Children of Israel are commanded to make Judges and Officers throughout their Tribes. *Deut. 17. 14, 15.* *When thou art come into the Land, &c. and shalt say, I will set a King over me, like as all the Nations that are about me: Thou shalt in any wise set him King over thee, whom the Lord thy God shall chuse: One from among thy Brethren shalt thou set over thee; thou mayst not set a Stranger over thee.* So God did only reserve to himself the nomination of their King; by which he design'd to make his People more happy than they could expect by their own peculiar Choice; he knowing the Heart of Man, and Corruption of his Nature, would be sure to nominate such as was most fit to govern his People.

People the source of Power.

That God did not require the Jews to accept of him for King whom he should chuse, but left it to their own free Will whether they would or no, is plain from the following Examples. Upon the death of *Saul*, *David* was set up by the appointment of Almighty God, yet there was only the Tribe of *Judah* that followed *David* and made him King; eleven Tribes following *Ishbosheth*, *Saul's* Son, whom they made King: and tho *David* had a long War against the House of *Saul*, yet he calls them not Rebels, neither do we find that God punish'd them, or sent any Judgment upon them for not accepting of *David* as King; and when *Rechab* and *Banab* had slain *Ishbosheth*, and brought his Head to *David* at *Hebron*, saying, *Behold the Head of thine Enemy!* *David* instead of rewarding them, caused them to be slain for killing *Ishbosheth*, whom he calls a *Righteous Person*, not a Rebel: After whose death all those Tribes came to *David*, and made a Compact with him for the performance of such Conditions as they thought necessary for the securing of their Liberty, before they made him King, *2 Sam. chap. 2, 3, 4, 5.* The making of *Solomon* King by *David* his Father, was not thought sufficient without the Peoples Consent; else why did the People anoint *Solomon*, and make him King

Jews allow'd freedom in the choice of their King.

the second time? We read, *Judges* 8. 21, 22, 23. that after *Gideon* had slain *Zebab* and *Zalmunna* with the *Midianites*, the Children of *Israel* said unto *Gideon*, *Rule thou over us, both thou and thy Son, and thy Son's Son also; for thou hast deliver'd us from the Hand of Midian.* But he refusing their Offer, they afterwards made his Bastard-Son *Abimelech* King, tho he had Threescore and ten lawfully begotten Sons. *Zimri* having slain *Baasha* King of *Israel*, reign'd in his stead; but the Children of *Israel* hearing thereof, rejected him, and made *Omri* the Captain of the Host King of *Israel*, *1 Kings* 16. 15, 16. The Kingdom of *Edom* appointed a Deputy to rule over them instead of a King, and gave him Royal Authority, there being then no King in *Edom*, *1 Kings* 22. 47. See *1 Macchab.* 9. 28, 29, 30. & 13. 8, 9. & 14. 41 to 49. By which it is further apparent that their Kings and Governors were chosen by the People.

Propinquity of Blood not always determines the choice.

Prov'd from the Jewish Kings.

Tho Propinquity of Blood is a great Preheminence towards the attaining of any Crown, yet it doth not bind the Commonwealth to yield thereto, and to admit at hap-hazard every one that is next by Succession of Blood (as was falsely affirm'd by *R. L'Estrange* and many others, when the Parliament would have disinherited the Duke of *Tork* as unfit to govern this Nation, he being a Papist) if weighty Reasons require the contrary, because she is bound to consider well and maturely the Person that is to enter, whether he be like to perform his Duty and Charge to be committed to him: For to admit him that is an Enemy, or unfit to govern, is to consent to the destroying of the Commonwealth. See how God dealt in this Point with the Children of *Israel*, *1 Sam.* 8. after he had granted to them the same Government as the other Nations round about them had, whose Kings did ordinarily reign by Succession as ours do at this day, and as most of the Kings of the *Jews* did afterwards: Yet that this Law of succeeding by Proximity of Birth, tho for the most part it should prevail, he shew'd plainly that upon just Causes it might be alter'd, as in the Case of *Saul*, who left behind him many Children, yet not any of them succeeded him except *Ishbosheth*, who was not his eldest Son, who was anointed King by *Abner* the general Captain of that Nation, to whom eleven Tribes follow'd until he was slain, and then they chose *David*. And *Jonathan*, *Saul's* other Son, so much prais'd in Holy Scripture, being slain in War, his Son *Mephibosheth* did not succeed in the Crown, tho by Succession he had much greater Right to it than *David*. God promis'd *David* that his Seed should reign for ever after him: Yet we do not find this perform'd to any of his elder Sons, nor to any of their Offspring, but only to *Solomon* his younger and tenth Son. *Rehoboam*, the lawful Son and Heir of King *Solomon*, coming to *Shichem*, where all the People of *Israel* were assembled together for his Coronation and Admission to the Crown (for until that time he was not accounted true King) who refusing to ease them of some heavy Impositions which they had receiv'd from his Father, ten Tribes of the twelve refuse to admit him their King, and chose *Jeroboam* his Servant, and made him their lawful King, and God allow'd thereof; for when *Rehoboam* had prepar'd an hundred and fourscore thousand chosen Men who were Warriors, to reduce those ten Tribes to the Obedience of their natural Prince, God commanded them to desist by his Prophet *Shemaiah*, and so they did. These and the like Determinations of the People about admitting or refusing of Princes to reign, or not to reign over them, when their Designments are to good Ends, and for just Causes, are allow'd by God, and oftentimes are his own special Drifts and Dispositions, tho they seem to come from Man.

Consent of the People determines the choice of the King.

He who is set up or made King by the Consent of the People, hath a just Title against the next Heir of the Blood and his Issue, who are put by the Crown; else most of the Princes now reigning in *Europe* would be Usurpers, and want good Titles to their Crowns, they or their Ancestors being set up by the People, which were not the right Heirs of the Royal Stock.

The Laws of the Commonwealth are the very Soul of a Politick Body.

Kings and Emperors always have been, are, and ought to be subject to the Laws of their Kingdoms, not above them, to violate, break or alter them at their pleasures, they being obliged by their Coronation-Oaths in all Ages and Kingdoms, inviolably to observe them: for *St. Paul* saith, a Prince is the Minister of God for the Peoples Good, and Tribute and Custom are paid to him that he may continually attend thereto.

The Defence and Preservation of the Commonwealth is to be manag'd to the benefit of those who are committed, not of those to whom it is committed. A just Governor for the benefit of the People, is more careful of the publick Good and Welfare, than of his own private Advantage.

Alle-

Allegiance is nothing but Obedience according to Law, which when the Prince violates he has no right to Obedience.

There is a mutual Obligation between the King and People, which whether it be only Civil or Natural, tacit or in express words, can be taken away by no Agreements, violated by no Law, rescinded by no Force.

A Kingdom is nothing else but the mutual Stipulation between the People and their Kings.

The Supreme Authority of a Nation belongs to those who have the Legislative Authority reserv'd to them; but not to those who have only the Executive, which is plainly a Trust when it is separated from the Legislative Power: and all Trusts by their nature import, That those to whom they are given are accountable, tho no such Condition is specified. Obligations between the King and People mutual.

If the Subject may in no case resist, then there can be no Law but the Will and Pleasure of the Prince: for whoever must be oppos'd in nothing, may do every thing; then all our Laws signify no more than so many Cyphers: And what are the Law-makers but so many Fools or Madmen, who give themselves trouble to no purpose? For if the King is not oblig'd to govern by those Laws that they make, to what purpose are the People to obey such Laws?

Whether another has Right to my Goods, or, if he demand them, I have no Right to keep them, is all one.

If the King sue me by pretence of Law, and endeavour to take away my Mony, my House or my Land, I may defend them by the Law; but if he comes arm'd to take away my Liberty, Life and Religion, which are mine by the Laws of God and Man, may I not secure them with a good Conscience?

Every Man has a Right to preserve himself, his Rights and Privileges, against him who has no Authority to invade them: And this was the Case of *Moses*, who seeing an *Egyptian* smiting a *Hebrew* he slew him. And *Sampson* made War upon the *Philistines* for burning his Wife and her Father, who were both but private Persons, who knew they could have no other kind of Justice against them, but what the Law of Nature gives every Man. Self-defence every ones Right.

We ought (saith the learned *Junius Brutus* in his Discourse of Government) to consider that all Princes are born Men. We cannot therefore expect to have only perfect Princes, but rather we ought to think it well with us if we have gain'd but indifferent ones: therefore the Prince shall not presently be a Tyrant if he keep not measure in some things, if now and then he obey not Reason, if he more slowly seek the Publick Good, if he be less diligent in administering Justice. For seeing a Man is not set over Men as if he were some God, as he is over Beasts, but as he is a Man born in the same Condition with them: as that Prince shall be proud, who will abuse Men like Beasts, so that People shall be unjust, who shall seek a God in a Prince, and a Divinity in this frail Nature. But truly if he shall wilfully subvert the Republick; if he shall wilfully pervert the Laws; if he shall have no care of his Faith, none of his Promises, none of Justice, none of Piety; if himself become an Enemy of his People, or shall use all or the chiefest Notes we have mention'd, then verily he may be judg'd a Tyrant, that is, an Enemy of God and Men: And by how much longer he is tolerated, the more intolerable he becomes, and they may act against him whatever they may use against a Tyrant, either by Law or just Force. Tyranny is not only a Crime, but the Head, and as it were the Heap of all Crimes; therefore is he so much the more wicked than any Thief, Murderer, or sacrilegious Person, by how much it is more grievous to offend many and all, than particular Persons. Now if all these be reputed Enemies, if they be capitally punish'd, if they suffer pains of Death, can any invent a Punishment worthy so horrid a Crime?

What Actions make a King a Tyrant.

The Laws are the Nerves and Sinews of Society; and as the Magistrate is above the People, so is the Law above the Magistrate, or else there can be no Civil Society.

He who makes himself above all Laws is no Member of a Commonwealth, but a mere Tyrant.

If a Magistrate, notwithstanding all Laws made for the well-governing a Community, will act plainly destructive to that Community, they are discharg'd either from Active or Passive Obedience, and indispensably oblig'd by the Law of Nature to Resistance.

Is it not reasonable and just I should have a Right to destroy him who threatens me with Destruction? for by the Fundamental Law of Nature, Man being to be

preserv'd as much as possible, when all cannot be preserv'd, the Safety of the Innocent is to be prefer'd: I say, he who having renounc'd his Reason, the common Rule and Measure God hath given to Mankind, by endeavouring to destroy me, is thereby become as a Beast of Prey, and ought to be treated accordingly.

The Laws (says Tully) are above the Magistrates, as the Magistrates are above the People.

He who is destructive to the Being of another, hath quitted the Reason which God hath given to be the Rule betwixt Man and Man of Justice and Equity, hath put himself into the State of War with the other, and is as noxious as any savage Beast that seeks his Destruction.

No Man in Civil Society can be exempted from the Laws of it: for if there be no Appeal on Earth for Redress or Security against any Mischief the Prince may do, then every Man in that Society is in a State of Nature with him, in respect of him.

Thucydides, l. 2. saith, "Not only those are Tyrants who reduce others into Servitude, but much rather those who when they may repulse that Violence, take no care to do it; but especially those who will be call'd the Defenders of Greece and the Common Country, and yet help not their oppress'd Country."

If a Man may be a Wolf to a Man, nothing forbids but that a Man may be a God to a Man, as it is in the Proverb: Therefore Antiquity hath enroll'd *Hercules* amongst the number of the Gods, because he punish'd and tam'd *Procrustes*, *Busyris*, and other Tyrants, the Pests of Mankind and Monsters of the World. So also the *Roman* Empire, as long as it stood free, was often call'd the Patrocine against the Robberies of Tyrants, because the Senate was the Haven and Refuge of Kings, People and Nations.

Tyranny to
be with-
stood.

It is as lawful, and more reasonable to prevent the overthrowing of our Religion, Laws, Rights and Privileges, from any Man or Men whatsoever amongst our selves, as from a Foreign Power; because one acts contrary to the Laws of God and the Country, and the other being not subject to the Laws of the Country, can be no ways bound by it.

It was thought no Injustice in the Ship to cast out the Prophet, when they found he was likely to prove the Wreck of them all; and the Almighty shew'd he approv'd of their Act, by quieting the Storm when he was gone. The Scripture that hath set us none but good Examples, tells us, That some Princes should not have one of their Race left that pisseth against the Wall: Now what were their Faults but Idolatry and Oppression of their People? Then how can it be a Sin in a Nation to free themselves from an idolatrous and oppressing King? When it is done by the greatest and most considerable part thereof, it does silently imply a Consent of God; for it cannot be Covetousness or Ambition that moves such a Multitude.

When once the Christian Religion is become a part of the Subjects Property by the Laws and Constitutions of the Country, then it is to be consider'd as one of their principal Rights; and so may be defended as well as any other Civil Right; since that those different Forms of Government that the *Jews* were under, are no Rule for the Government of any Nation or People whatsoever.

The Principles of Natural Religion give those who are in Authority, no Power at all, but only secure them in the possession of that which is theirs by the Laws of the Country.

What Causes
are just,
and what
not.

That Cause is just which defends the Laws, which protects the Common Good, which shall preserve the Realm: And that Cause is unjust which violates the Laws, defends the Breakers of the Laws, protects the Subverters of the Country. That is just which will destroy Tyrannical Government, that unjust which would abolish just Government; that lawful which tends to the Publick Good, that unlawful which tends to the private.

Ridiculous-
ness of Pas-
sive Obedi-
ence in se-
veral In-
stances.

But alas, that Bug-bear *Dagon* of *Passive Obedience*, is a Notion crept into the World, and most zealously, and perhaps as ignorantly defended: Here all our Laws and Decrees, by which we are govern'd, are of the Peoples Choice, first made by the Subject, and then confirm'd by the King. Here a King cannot take our Sons and Daughters, our Fields and Vineyards away, unless we please to give him them.

Where was the Doctrine of *Passive Obedience*, when *Elisha* pray'd for Blindness to come upon those who were sent by the King of *Syria* to fetch him? And when he commanded the Door to be shut, and the Messenger to be held fast who was sent for his

his Head by the King of *Israel*? And when *Azariah*, with fourscore valiant Priests, thrust *Uzziab*, their lawful King, out of the Temple? And when *Elijah* destroy'd the two Captains with Fire from Heaven, with the hundred Men under their Command, who were sent at twice by King *Abaziah* to fetch him? And when the Children of *Israel* slew *Amaziah* their lawful King for his Idolatry, without any appointment in Scripture, or prophecy of his downfall? and yet that is no where call'd Rebellion, neither were they punish'd by his Son, whom they had made King in his Father's stead. And when *Mattathias* slew the King's Commissioner for compelling men to Idolatry; and when *Mattathias* and his Friends pull'd down the Altars which were adapted to Idols, 1 *Macc.* 2. 25, 45.

Amongst the Jews not known.

Where was the Doctrine of Passive Obedience when the *Edomites* revolted from *Jehoram*, and made themselves a King? And *Libnab* did also revolt, because of his evil Government, 2 *Chron.* 21. without any appointment, or foretelling of their Revolt by God in Scripture, or being call'd Rebels. And when *Saul's* Subjects swore that *Saul* should not kill *Jonathan*, and they rescu'd him that he died not, 1 *Sam.* 14. 45. And when *David* (tho a private Man) arm'd himself with six hundred Men, no doubt but he design'd to have fought *Saul* and his Army, if the Men of *Keliab* would have assisted him, and have been true to him; when he enquir'd of the Lord, whether the Men of *Keliab* would deliver him and his Men into the hands of *Saul*: Upon the Lord's answering they would deliver them up, he and his Men departed the City, 1 *Sam.* 23. Can any Man imagine their meaning was to run up and down the Country together, and fly before *Saul* and his Army, if they had been able to cope with any number he could bring or send against them? If Resistance was unlawful, and a Sin, surely *David*, a Man after God's own Heart, would have known it; and then he would not have involv'd the six hundred Men that came to his assistance in the Sin of Rebellion, but have told them, that the Prince was not to be resisted tho never so great a Tyrant.

Where was the Doctrine of Passive Obedience, when *Constantine the Great* aided the oppressed Christians and Romans, against the Tyranny and Persecution of the Emperors *Maxentius* and *Maximinus* with force of Arms, with which he conquer'd those Persecutors in several Battels fought against them at the Christians earnest importunity? And when the Primitive Christians resisted *Licinius* their Emperor for persecuting them contrary to Law; and *Constantine the Great* join'd with them, who held it his Duty, saith *Eusebius*, to deliver an infinite multitude of Men, by cutting off a few wicked ones as the Pests and Plagues of the Time. And when the Primitive Christians of *Constantinople* oppos'd *Asper's* being made Emperor; but *Leo* being nam'd, they consented thereto. And when the Christians under the King of *Persia*, resisted him for persecuting them, and was assisted by *Theodosius* the Roman Emperor, who told the King of *Persia*, He was ready to defend them, and no ways to see them suffer for Religion. And when the Christians of *Armenia* the Greater, made a League with the Romans for the securing of their Persons and their Religion, against the *Persians* under whom they liv'd. And when the *Novatians*, assisted by the Orthodox, resisted and beat the *Macedonians*, tho they were assisted by *Constantius* the Emperor with four thousand Men to drive them from *Paphlagonia*: And when the Primitive Christians destroy'd *Julian's* Idolatrous Temple in his Reign.

In Constantine the Great's Time not known.

Where was the Doctrine of Passive Obedience, when the Lutheran Churches defended themselves against the Emperor *Charles* the Fifth? And when the Protestants of *Austria* took up Arms, Anno 1608. against *Matthias* King of *Hungary*, for denying them the free exercise of their Religion? And when Queen *Elizabeth* assisted the *Hollanders* against their lawful Sovereign? And when she assisted the Protestants of *France*, against their lawful Sovereigns *Charles* the Ninth, and *Henry* the Third? And when King *Charles* the First, and the Bishops and Clergy of *England* assisted the Protestants of *France*? And when the Protestant Princes of *Germany* invited *Gustavus Adolphus* King of *Sweden*, to come into *Germany* to assist the Protestants against their lawful Prince for persecuting them? And when the Protestants join'd with him upon his arrival? And when King *Charles* the First assisted them with Men from *England*? So that, according to this Christian Doctrine of Passive Obedience, Queen *Elizabeth*, and King *Charles* the First, with the Bishops and Clergy of *England*, and several other Princes and States, have been guilty of St. Paul's Damnation; for they that are aiding and assisting to Rebels, are as guilty as those that actually rebel.

Nor in Charles V. time amongst the first Reformers.

Lucifer Caralitanus * a famous Christian, wrote a Book against *Constantius* the Emperor, which he sent him to read; wherein he calls him, and his Idolatrous Bishops, Blasphemers; and charges him with inviting the Christians to Idolatry, and tells him,

*Bp of Cagliari in Sardinia, An. 357.

him, be ought to be put to Death for so doing, by the Command of God in Deut. 13. where God says, That he that (but) intices secretly to Idolatry, shall be put to Death. And this was approv'd by the great Bishop *Athanasius*, and those Christians that were with him, who calls it, *The Light of Truth, the Doctrine of the true Faith*: How came you (says he to *Calaritanus*) to understand the sense and meaning of the Scripture so perfectly, if the Holy Ghost had not assisted you in it? Now I would fain know, whether he that is aiding and assisting towards the bringing in of Idolatry (as the Popish Religion is) is not as worthy of Death, as he that only inticeth to Idolatry? And this is the Case of many who call themselves of the Church of England, who are for the Restoration of King *James*, and by consequence of Idolatry.

Surely if God had commanded the Yoke of Subjection to the Tyrannical Will of Princes, 'tis strange that neither the Prophets, *Elisha* and *Elijah*, nor *Azariah*, nor *David* with his followers, nor the Jews under their Kings, nor the Primitive Christians after their Religion was establish'd by Laws, nor any of the Reformed Churches, should have known this Doctrine of Passive Obedience.

In the Barons Wars
Simon of Monfort
accounted a Martyr.
Absurdity of the
Doctrine of Non-resistance.

In the Barons Wars under *Simon of Monfort*, the King and his Sons were taken Prisoners; but the Prince escaping, fights *Simon* and kills him: The Historians of those Times calls him not a Rebel or a Traitor, but a Martyr for the Liberties of Church and State.

If Resistance be unlawful upon any account whatsoever, then were all those People guilty of Rebellion, who in all Ages have resisted or turn'd out their evil and destructive Kings and Governors; and then the Jews were guilty of this Sin, for slaying and turning out several of their Kings, without any appointment from God in Scripture. So likewise the Primitive Christians did involve themselves under the Guilt of *St. Paul's* Damnation, for resisting of their Kings and Emperors; and likewise the Christians in all Ages since, who have resisted their Princes by turning them out, &c. And then Bishop *Athanasius* (Author of our Creed) and those Christians with him, did also come under the Guilt of *St. Paul's* Damnation, for approving of *Calaritanus's* Book, which, according to the Doctrine of Passive Obedience, was a treasonable and rebellious Book; for the Incendiaries to Rebellion are as guilty as they that are actually in it. And then all those Princes that have been set up by the People, in the room of those whom they have turned out for their evil Government, were Usurpers; and consequently all those who have succeeded them, where the Descent of the Blood is altered, are Intruders, Usurpers, and no lawful Kings.

Were the Doctrine of Passive Obedience without reserve a true Doctrine, no doubt but we should have had a better account thereof than from a few Court-Divines, who have most learnedly interpreted the Will and Pleasure of the Prince against the Laws of Nature, or of the Country, to be the Powers which *St. Paul* requires Obedience unto under pain of Damnation. So by consequence the Law ceaseth to be the Powers; then we are in a worse Condition than in the State of Nature.

With what Face can any man assert that Passive Obedience without reserve is the Doctrine of the Gospel? Which is charging God with as palpable a Contradiction as any two things can be, it being diametrically opposite to the Law of Self-preservation, which is the Law of Nature, and the Decree of the Almighty, which Law is sacred, and not to be infring'd by any man.

God never commanded any thing contrary to the Law of Nature, unless it were in the Case of *Abraham*, in commanding of him (as a tryal of his Faith) to offer up his Son *Isaac*.

Protection
the Foundation
of Obedience.

David's
Example.

That Protection is the only cause of Allegiance and Obedience, is plain from the Example of *David* and his six hundred Men, who were protected from *Saul* and his Army, by *Achish* King of the *Philistines*, who gave them *Ziklag* to live in; and *David* and his men fought for the *Philistines* against the *Geshurites*, *Gezrites* and the *Amalekites*, and subdu'd them. That *David* ow'd no Allegiance to *Saul*, who sought his destruction, is plain; for when *Achish* told *David* that he and his men should go with him to fight against the Children of *Israel*, *David* offer'd his Service, and said to *Achish*, Surely thou shalt know what thy Servant can do. Then *Achish* said unto *David*, Therefore I will make thee keeper of my Head for ever. So *David* and his men went in the rear of the Army; and when the Lords of the *Philistines* would not let *David* and his men fight for them, lest they should betray them into the hands of *Saul* and his Army, then *David* expostulated with *Achish*, and said, What have I done? and what hast thou found in thy Servant, so long as I have been with thee unto this day, that I may

not

not go fight against the Enemies of my Lord the King? 1 Sam. Chap. 27, 28, 29. This is a plain case, that *David* intended to fight *Saul* and his Army. Now the Intention of the Mind is as bad as the Act; and yet it is no ways said, that *David* repented thereof, or of his arming the six hundred men (before mention'd) with design to fight his lawful Sovereign King *Saul*.

The Primitive Christians took Protection to be the only cause of Allegiance: For when *Julian* the Apostate was chosen Emperor of the *Romans*, not by the free Consent of the People, but by the Soldiers, during the Life of *Constantius* the lawful Possessor of the Throne, the Christians did not reckon themselves oblig'd to fight for *Constantius* against *Julian*; for they troubled not their Heads with the Rights of Princes.

Augustus, tho he had violently usurp'd the Throne, yet he was confirm'd in it by the People and Senate of *Rome*, who establish'd it in his Family by a long Prescription, when *St. Paul's* and *St. Peter's* Epistles were wrote, of Obedience to the Laws, to Kings and Magistrates. So that we see Obedience was requir'd to an Usurper under the pain of Damnation, when the Government was confirm'd to him by the People, that is, by the Majority, for it cannot be thought that every Body consented thereto.

Apollonius Tyanicus, writing to the Emperor *Domitian*, saith, *These things have I spoken concerning Laws; which if thou shalt not think to reign over thee, then thy self shalt not reign.*

In Matrimony, which is the nearest and strictest Obligation of all others, by which those who were two are made one Flesh, if one Party forsakes the other, the Apostle pronounceth the Party forsaken to be free from all Obligation, because the Party deserting violates the chief Conditions of Marriage, &c. 1 Cor. 7. 15. And shall not the People be much more absolv'd from their Allegiance to that King who has violated his Oath, and the Laws of the Land, the very cause for which they swear Allegiance to him?

Absolute Monarchy is inconsistent with Civil Society; and therefore can be no Form of Civil Government, which is to remedy the Inconveniences of the State of Nature.

Absolute Monarchy consists not with Civil Society.

No man, or Society of Men, have Power to deliver up their Preservation, or the Means of it, to the absolute Will of any Man; and they will have always a right to preserve what they have not Power to part with.

No Power can exempt Princes from the Obligation to the Eternal Laws of God and Nature.

As no body can transfer to another more Power than he has in himself, and no Body has an absolute Arbitrary Power over himself, or over any other, to destroy his own Life, or take away the Life and Property of another; so a man cannot give such Authority to any, or subject himself to the Arbitrary Power of another: For the Law of Nature is an eternal Rule to all men, whose Actions must be conformable to that Law, which is the Will of God. For the Fundamental Law of Nature being the preservation of Mankind, no human Law can be good or valid against it; and much less the Will and Pleasure of a Prince against the Law and Custom of the Country, which shall be prejudicial to the Subject.

As the Happiness and Prosperity of Kingdoms depend upon the Conservation of their Laws; if the Laws depend upon the Lust of one man, would not the Kingdom fall to ruin in a short space? But the Laws are better and greater than Kings, who are bound to obey them. Then is it not better to obey the Laws, rather than the King? Who can obey the King violating the Law? Who will or can refuse to give Aid to the Law when infring'd?

It is impossible any body in a Society should have a right to do the Community harm.

All Kings and Princes are, and ought to be bound by the Laws, and are not exempted from them; and this Doctrine ought to be inculcated into the Minds of Princes from their Infancy.

Kings Power bounded by Law.

Let the Prince be either from God, or from Men, yet to think that the World was created by God, and in it Men, that they should serve only for the benefit and use of Princes, is an Absurdity as gross as can be spoken; since God hath made us free and equal: But Princes were ordain'd only for the Peoples benefit, that so they might innocently preserve human and civil Society with greater facility, helping one the other with mutual benefits.

In all Disputes between Power and Liberty, Power must always be prov'd, but Liberty proves it self; the one being founded upon positive Law, the other upon the Law of Nature.

Adam no
absolute
Monarch.

With what ignorance do some assert, that *Adam* was an absolute Monarch, and that paternal Authority is an absolute Authority? and that the Father of a Family governs by no other Law than by his own Will, and the Father is not to be resisted by his Child? and that *Adam* had a Monarchical, Absolute, Supreme, Paternal Power? and that all Kingly Authority is a Fatherly Authority, and therefore irresistible? and that no Laws can bind the King, or annul this Authority?

How could *Adam* be an absolute Monarch, when God gave him the Herbs but in common with the Beasts, *Gen. 1. 29, 30*? Can it be thought that God gave him an absolute Authority of Life and Death over Man, who had not Authority to kill any Beast to satisfy his Hunger? Certainly he had no absolute Dominion over even the Brutal part of the Creatures (much less over Man) who could not make that use of them as was permitted to *Noah* and his Sons, *Gen. 9. 3.* where God says, *Every moving thing that liveth shall be meat for you; even as the green Herbs have I given you all things.* Is it not as reasonable to believe, that God would have cursed *Adam* if he had kill'd his Son *Abel*, as *Cain* for killing him? *Cain* was very sensible every one had by the Law of Nature a right to kill him for being guilty of Blood, when he said, *Every one that found him should slay him*, *Gen. 4. 14.* God made no exemption to the greatest Man living who should be guilty of innocent Blood, when he said, *He that sheddeth Man's Blood, by Man shall his Blood be shed*, *Gen. 9. 6.* Neither *Noah* or his Sons were exempted from this great Law, and therefore could have no absolute Authority. Since God has no where given any Man such Authority, there can be no such Authority: for the Community cannot make themselves Slaves by investing such an Authority in any Man; should they do it, it is not binding, it being against the Law of Nature.

Noah no
absolute
Monarch.

If *Noah* was Heir to *Adam*, I ask which of *Noah's* Sons was Heir to him? for if by Right it descended to all his Sons, then it must have descended to all their Sons, and so on; if so, then are all Men become equal and independent, as being the Offspring of *Adam* and *Noah*: If it descended only to the eldest, and so on, then there can be but one lawful Monarch in the World; and who that is, is impossible to be found out; so that Paternal Monarchical Authority, take it which way you will, comes to just nothing at all.

Where human Institution gives it not, the First-born has no Right at all above his Brethren.

No Man has an absolute Authority over the Creatures (much less over Mankind) because they were given for the use of all Men, as occasion should serve: should any Man or Men destroy them for their Will and Pleasure, beyond what is necessary for the use of Man, or for his Preservation, it would be a Sin, and therefore could be no Authority, for God authorizes no Man to commit a Sin, tho he often permits it.

Parents are
not invest-
ed with
absolute
Power.

The Law of God and Nature gives the Father no absolute Dominion over the Life, Liberty or Estate of his Child, and therefore he can have no absolute Authority; and where there is no absolute Authority, there can be no absolute Subjection due. There is an eternal Obligation on Parents to nourish, preserve, and bring up their Offspring; and under these Circumstances Obedience is due, and not otherwise. What is a Father to a Child more than another Person, when he endeavours to destroy him? Nay, is he not so much the more odious, as the Act is more barbarous, for a Father to endeavour to destroy his own Offspring, than for another Person to endeavour it? Certainly in such a case no Passive Obedience can be due, it tending to his Destruction (not to his Good) which is no Fatherly Act, and therefore not to be submitted to.

Self-de-
fence ne-
cessary, and
the neglect-
ing of it
sinful.

He that lets any Person whatsoever destroy him, when it is in his power to preserve his Life by defending himself, does tacitly consent to his own Death, and therefore is guilty of his own Blood, as well as he that destroys him: Whereas by defending himself, there can be but one guilty of Blood (which is the Invader) in which Defence, if he kills the other, his Blood lies at his own door. By which it follows, that Passive Obedience to unjust Violence is a Sin, but resisting such Violence is no Sin, but the Duty of every Man. The first Duty that I owe is to God, the second to my self in preserving my self, &c. the third to my Parent and Sovereign, in obeying them in all things reasonable and lawful.

By all the Precepts in Scripture which require Obedience to Parents, Homage and Obedience is as due to the one as to the other: for 'tis no where said, Children obey your Father, and no more; the Mother is mention'd before the Father in *Lev. 19. 3. Ye shall fear every Man his Mother, and his Father.* Sure Solomon was not ignorant what belonged to him as a King or a Father, when he said, *My Son, hear the Instructions of thy Father, and forsake not the Law of thy Mother:* And our Saviour says; *Mat. 15. 4. Honour thy Father and Mother:* And *Ephes. 6. 1. Children, obey your Parents, &c.* If Paternal Authority be an Absolute Authority, I ask, whether it be in the eldest of the Family? if so, whether a Grandfather can dispense with his Grandchild's paying the Honour due to his Parents by the fifth Commandment? 'Tis evident in common Sense, the Grandfather cannot discharge the Grandchild from the Obedience due to his Parents; neither can a Father dispense with his Child's Obedience due to the Laws of the Land; therefore the Obedience requir'd to Parents in Scripture is not to an absolute Authority, for there can be no absolute Authority where there is an Authority above it.

With what Folly and Ignorance do some assert, that the Kings of *England* are Absolute, as proceeding from *William* the Conqueror? To which I answer, that a Conqueror has no right of Dominion (much less any absolute Authority) over the Wife and Children of the Conquered, or over those who assisted not against him. No absolute Power derived from Wm the Conqueror.

Conquest may claim such a Right as Thieves use over those whom they can master, which is a Right of Tenure, but no Tenure of Right.

Conquest may restore a Right, Forfeiture may lose a Right, but 'tis Consent only that can transact or give a Right.

There is no other absolute Power, than over Captives taken in a just War.

If the possession of the whole Earth was in one Person, yet he would have no Power over the Life or Liberty of another, or over that which another gets by his own Industry, for Propriety in Land gives no man Authority over another.

William the Conqueror made a League or Compact with the Nobles and Lords of the Land, to the performance of which he takes an Oath to observe the antient Laws of the Realm, establish'd by his Predecessors the Kings of *England*, and especially of *Edward* the Confessor; as likewise did *Henry* the First, with the Emendations his Father had made to them. *Stephen*, who succeeded *Henry*, made a Compact, and promised a Melioration of their Laws according to their Minds. *William Rufus*, *Henry* the First, and *Stephen* got the Consent of the People, by promising to grant them their usual Laws, and antient Customs. *Henry* the First, *Richard* the First, *King John*, and *Richard* the Second, obliged themselves at their Coronations to grant them, and then the People consented to own them as their King; and *Richard* the First, and *King John* were conjured by the Archbishops not to take upon them the Crown, unless they intended to perform their Oaths. If any King refus'd so to do, the Nobles thought it their concern to hinder his Coronation, till he had either made, or promised this Engagement. Wm the Conqueror made a Compact with the People.

What can be more absurd than to say, that there is an absolute Subjection due to a Prince, to whom the Laws of God, Nature and the Country, have not given such Authority? as if men were made as so many Herds of Cattel, only for the use, service and pleasure of their Princes.

But some do object, that the anointing of Kings at their Coronations makes their Persons sacred, unquestionable and irresistible, for any Tyrannical or Exorbitant Actions whatsoever. To which I answer, that every Christian's Baptism is a Sacrament of Christ's Institution; a Spiritual Unction and Sanctification, which makes a Person as sacred, yea more holy than the anointing of Kings can or doth of it self (that being no Sacrament) a Truth which no Christian can without Blasphemy deny: And yet no Christian is exempted from Resistance, Censure, or Punishments, according to the Nature of his Crime. And therefore the anointing of Kings at their Coronations cannot do it; it being a Ceremony of the Jews, not instituted by Christ, or any ways commanded to be continued by the Apostles, or their Successors; it signifying only the chusing or preferring one before another, and so became the Ceremony of consecrating to any special Office, and so was ordinarily us'd in the enstalling Men to Offices of any Eminency. Anointing of Kings does not make them absolute.

The Reign of a good King resembles that of Heaven, over which there is but one God, for he is no less beloved of the Virtuous than fear'd of the Bad; and if human Frailty could admit a Succession of good Kings, there were no comparison, Power

*The Power
makes the
King, and
not the
Title.*

being ever more glorious in one, than when it is divided.

'Tis not the Title of a King, but the Power (which is the Laws) that is invest-
ed in him, which makes the difference betwixt him and other Men in the executing
of this Power; his Person is sacred, and not to be resisted, he being above every
Soul contained in the same Society, and therefore cannot be resisted, or deprived
of his Office by any part, or by the whole Community, without the greatest Sin of
Robbery and Injustice imaginable.

If a Government (say some) may be disturbed for any unlawful proceedings
of the Governour, or his Ministers, how can any Government be safe? To which
I answer, That it is not lawful for every private Man to fly into the Bosom of his
Prince, for he is no competent Judg, be he of never so great a Quality; else a King
was the most miserable man living, lying at the Mercy of every desperate Fellow's
Censure.

*Govern-
ment not
to be dis-
turb'd for
private
Oppressions.*

It is impossible for one, or a few oppressed Men, to disturb the Government,
where the Body of the People do not think themselves concern'd in it, and that the
Consequences seem not to threaten all: yea when it does, yet the People are not
very forward to disturb the Government; as in King Charles the Seconds time,
when the Charters were condemned, and seized upon in order to make us Slaves,
and the Laws perverted, to the loss of many Innocent Lives, and many other
Oppressions too many to insert, and yet no body offered to disturb the Govern-
ment: I say, till the Mischief be grown general, and the Designs of the Rulers
become notorious, then, and then only, will the People be for righting them-
selves.

Whosoever, either Ruler or Subject, by Force goes about to invade the Rights
of either Prince or People, and lays the Foundation for overturning the Consti-
tution and Frame of any just Government, he is guilty of the greatest Crime I
think a man is capable of, being to answer for all those Mischiefs of Blood, Rapine
and Desolation, which the breaking to pieces of Governments brings on a Coun-
try; and he who does it, is justly to be esteemed the Common Enemy and Pest of
Mankind, and is so to be treated accordingly; and how far the late King James
was guilty of this, I leave the World to judg.

King WILLIAM or King LEWIS.

Wherein is set forth

*The Inevitable Necessity these Nations lie under, of submitting wholly
to One or Other of these Kings; and that the Matter in Controversy is
not now between King WILLIAM and King JAMES the Second,
but between King WILLIAM and King LEWIS of France, for
the Government of these Kingdoms.*

*P. of O.
vindicated.*

AT the first breaking out of these Motions in our Countries, there was no-
thing more earnestly enquir'd after than the Secret League with France, for
the Subversion of the Laws and establish'd Religion of England: And there
was a misguided Party amongst us, who finding hitherto that no such abominable
Contrivance was publicly prov'd against the late King James, that therefore he
was never guilty of any such evil Machination; and some were so far misled, as from
hence to doubt whether he were guilty of some other Enormities that were ob-
jected against him. But to those it may be sufficient to answer, that the then Prince
of Orange did not in his Declaration publicly charge King James with any such
League; and therefore the World cannot object against King William, that in this
Matter he has falsly aspersed him. There is nothing contained in that Declaration
(which I suppose is the Summary of what King William has to object publicly a-
gainst

gainst King James's Proceeding) that the most devoted to King James's Party can possibly deny; it contains nothing but Publick Matter of Fact, transacted before the Face of all the Nations; save only in the Matter of the pretended Pr. of W. which is a thing so ridiculous and despicable, that the Nation has not thought it fit to be taken notice of, or insisted upon. So that granting the Earl of Essex's and King Charles the Second's Death to be unjust Accusations, which have never been otherwise mention'd than as Coffee-house Chat, and in some idle Pamphlets publish'd by private Persons; and granting even the French League to be so too, there remain many and grievous Accusations certainly true, and sufficient to make us conclude with the incomparable Grotius, That *Voluntas regendi & perdendi Populum consistere nequeunt*. But what if the League with France be not yet publicly prov'd? I hope by this time the Eyes of the Nation are so open'd, that now there needs no such ceremonious Process. King James the Second deserted his People, abdicated his Kingdoms, leaving the Throne vacant, and his Kingdoms in the first state of Nature, without Government or Head, and threw himself into the Arms and Bosom of the French King, the most inveterate Enemy to the English Nation and Government both in Church and State: To him he apply'd for Help and Succour in the distress he had brought on himself, by observing the Measures set him by France and Rome, for the utter extirpation of the Protestant Religion in these Kingdoms: And the ambitious French Monarch presently lays hold on this Opportunity, receives him graciously, and promises all Assistance. Great Preparations are immediately order'd at Brest for Ireland; and after the English King had receiv'd his full Instructions from Lewis the Fourteenth, and was put under the Tutelage of two or three French Generals for managing the War, and French Treasurers and Officers for managing the Revenue, together with Monsieur d' Avaux for giving Instructions, he embark'd for Ireland with a great stock of Money and Arms.

K. J. ruin'd
by his ad-
vance to
France.

It was expected, and certainly promis'd, by several in England that stood very well affected to King James, tho not of his Religion, That as soon as he should put his Foot on Irish Ground, he would immediately begin with all Lenity and Mercy to his Protestant Subjects, he would wholly cast himself upon them, by turning out Tyrconnil, and committing the Sword to a Protestant Governour; by admitting Protestants, especially of the Church of England, into all Impleys both Civil and Military: For this they knew was the only Measures he could reasonably take for the regaining the Hearts of his Protestant Subjects in England, and of obtaining once more his deserted Throne. But what difference is there between English and French Politicks? Instead of these Methods, as soon as he arriv'd at Dublin, he was address'd by Speeches from some Irish Popish Bishops and Clergy (particularly by Bishop Terrell, Tyrconnel's Secretary, and Dr. Moor) advising him to consider his Popish Subjects of that Kingdom for all their Sufferings these Thirty last Years, and to restore them to the Churches and Possessions which had been so unjustly usurp'd from them: They should have added, for the horrid Rebellion they had rais'd in Forty One, and for the many thousands of barbarous Murders committed by them to maintain the Romish Religion. Monsieur d' Avaux also at his Publick Audience, as Ambassador from his most Christian Majesty, advis'd him in his Master's Name to the same Favours towards his Catholics of that Kingdom.

His behavi-
our in Ire-
land to-
wards the
Prote-
stants!

Whereupon immediately the few Protestants that remain'd in Impleys, were commanded to lay them down: Not a Protestant was allow'd to sit in Council, or bear Arms; Lord Granard, Lord Chief Justice Keating, Sir John Davis, Sir Thomas Newcomen, Colonel Russel, &c. were all laid aside, and no one permitted to hold any place but Papists; tho these Gentlemen went as far to serve the King, as made some suspect them of being of his Religion. But a signal Example we have of his Majesty's Gratitude to those that serve him, in the late Bishop of Chester, who coming with him out of France, died at Dublin, and was so miserably poor, as to want common Necessaries; and being dead, was buried at the Charge of a charitable Prelate there.

Papists on-
ly to hold
Places.

But to proceed: The Protestants, who for two months before King James came into Ireland had suffer'd most grievous Violences and Wrongs from the Irish Soldiers, being pillag'd and rob'd of all their Cattel and movable Goods, thought that upon his Majesty's arrival they should find some Protection, or abatement of their Troubles; but upon several Complaints made by them to the King for Injuries receiv'd, he would answer them, That he would do for them what he could; but they never receiv'd further Satisfaction or Justice: And particularly, the Lord Galmoy had in the North most barbarously cut off a Gentleman's Head, and made the Gen-

No redress
of Grie-
vances.

tleman's own Son carry it on a Pike in triumph before his Regiment: Upon complaint of this to the King, he seem'd mightily displeas'd at the bloody Inhumanity; yet the Lord Galmoy, the very next day after the Complaint, carry'd the Sword before his Majesty to Mass. When the Protestant Bishop of Meath, with a Body of Clergymen, waited on the King, the Bishop address'd himself to him in this manner:

May it please your Majesty, The Clergy of the City of Dublin, with several of the Rural Clergy that are retir'd from this Country for Safety, attend your Majesty to congratulate your arrival in this Kingdom; and do humbly implore your Royal Protection to them, their Churches and Religion; desiring that from time to time they may be admitted to make their just Complaints of those Injuries they have lately receiv'd.

His Majesty's Answer was, *That he would protect all Men in their Religion and Properties; and as for the Wrongs that had lately been suffer'd by several, 'twas impossible in these Times of Commotions but such would happen; but he should as far as he could prevent and redress them: However, if I am invaded in this Kingdom, as I have been in England, I must secure my self as well as I can.*

What could the King possibly intend by this last Expression? Can it be otherwise, than that as he found the Protestants of England desert him upon the Invasion, and some of them fly over to the Prince's Party, he would prevent the like Trick in Ireland, by cutting them all off, or securing them under close Confinement? Now what reason have Subjects to trust a King that will not trust them? When the Band of mutual Credit is broken, all Government fails immediately. But that we may see more plainly, that King James never designs any more to trust his Protestant Subjects, but to oppress them, and utterly to extirpate their Religion from these Nations, I shall here relate a remarkable Passage that was lately between a Protestant Clergy-man of Dublin, and an Irish Lord who came thither with King James out of France.

A Dialogue betwixt a Protestant Clergy-man and an Irish Lord. The Clergy-man said to the Lord, *That he hop'd now the King was come amongst them, he would protect his Protestants, and redress them in those Injuries they had of late groan'd under; and not only so, but that his Majesty would be more than ordinary kind and favourable to them, advancing them to Places of Trust and Power, and granting them a Share both in Civil and Military Employments; for that this was the most probable Method for gaining on his Protestants of England, by whose means only he must expect, if ever, to be resettled in his Throne.*

To this the Lord (who is one of the best Sense amongst them, and coming with the King from France, does certainly know all their design'd Measures) made this return; *That his Majesty was naturally Merciful and Compassionate, and that he would, as far as he could, prevent all Injuries to any of his Subjects: But for doing this with the Design you mention, or for trusting his Protestants, I assure you 'tis far from his thoughts: Both he and we had rather he should hazard and lose forty Crowns, than be oblig'd to his Protestants for the possession of his Kingdoms. He can never expect to come in by their means, unless tied and fetter'd with Conditions, which he cannot, nor shall not observe to them. 'Tis by the Force of the Arms of his good Catholicks, and by Assistance from the glorious Monarch of France, that he designs to regain his Dominions: And then he comes in free and boundless, like an Absolute Conqueror, and shall afterwards do what he pleases.*

K. J. had his Instructions from France. By this we may plainly see what King James, by direction from King Lewis, designs. And if after all this, the Eyes of the Nation are not enlightned, we are all destin'd to Ruin and Misery. But thanks be to God, in a great measure these Proceedings of King James in Ireland have had their natural Effect on several good Protestants, that before were pretty well inclin'd to his Government; but by these most unreasonable Methods which he has taken in Ireland, contrary to their expectation, and his own visible Interest, they are clearly taken off, and have abandon'd him to be destroy'd by the Measures set him by France; and are resolv'd to stick firm to the Protestant Interest under their Majesties King William and Queen Mary, on whose auspicious Government the Protestant Religion, not only of these Kingdoms, but of all Europe, does wholly rely.

Fatal Consequences of falling under K. J. again. For should King James succeed in his Designs, we may plainly see what we are to be brought to: And after that what will follow? We shall be made a Prey to France, whose restless Contrivances have been bringing that about these twenty Years, for which this seems to be the most convenient Opportunity that ever presented. Holland must certainly expect to be suddenly destroy'd by that ambitious Monarch; and then I propose it to the consideration of all thinking Men, whether he will let England be quiet, tho under the Government of his dearly beloved Catholick

tholick Brother King *James*? No certainly, he knows well enough that King *James* has neither the Conduct nor Power to defend his Dominions from his powerful Arms. He has lately supply'd him with Mony, Ammunition and Arms in great quantities; and is yet making greater Preparations for him at *Brest*, designing to land an Army of forty or fifty thousand *French* in *England*, or some other of these Kingdoms, on purpose to conquer them. And can we think that he does all this merely out of a Principle of Generosity and Honour for re-establishing his Brother? All the World knows the *French* King's Generosity extends no farther than his Interest; and in his most glorious Atchievements, he has his secret Designs. What then can he more reasonably intend, than that one day or other *England* may be brought to a severe Account for these vast Expences; and the Non-repayment of them may be a sufficient Pretence of War whenever he pleases?

Moreover, we may plainly see the *French* King uses King *James* in this Juncture merely as a Stalking-horse, over whose Back he designs to render himself Master of these Kingdoms. By his Covert he has already got strong footing in *Ireland*; all there is transacted, even at this time, by King *Lewis*: King *James* has only the empty Name; Monsieur d' *Avaux* gives all Instructions, and was sent there by the *French* King so to do. The *French* Officers manage the War against the poor Remains of struggling *English* there; only King *James*'s Name is us'd, but he has nothing to do in the whole Affair. And even in the Treasury for disbursing the Mony, 'tis perform'd solely by a Treasurer sent out of *France*, and King *James* has no more Power in the Matter than the King of *Bantam*: And several *Irish* Officers are displac'd to give way for those *French* Plenipotentiaries; so that already we may reckon his *French* Majesty sole Master and King of *Ireland*. If therefore these Measures are taken there, what may we suddenly expect in this place? The same *French* Power that has seiz'd on that miserable Kingdom, will soon overspread this, unless we unanimously unite together under their Majesties King *William* and Queen *Mary*, for opposing this Deluge of Tyranny that threatens us. And in doing this we may plainly see that we oppose not King *James*, his Name is an empty Sound, us'd only as a Cheat upon the People: 'Tis the Great *Lewis*, the Tyrannical *Lewis*, that implacable cruel Enemy to the Reformed Religion, whom we oppose. He has of late been so puff'd up with those nauseous Flatteries offer'd him by his barbarous Clergy for his glorious Extirpation of Heresy, that he will venture half his Kingdoms at this Juncture to render himself Master of *Great Britain* and *Ireland*, that he may practise the same Cruelties here for bringing us over to the detestable Abominations of *Rome*. And when the Protestant Religion is suppress'd in *Holland* and *England*, there's an end of it over the Face of *Europe*. In *France* 'tis already vanish'd, and the lesser States of *Germany* will soon be reduc'd; so that at present the universal Concern of all the Protestant Princes seems engag'd in this Juncture. And as we cannot mistrust God's good Providence in preserving our pure Reform'd Religion, notwithstanding all Attempts of wicked Men; so we cannot doubt of a hearty and unanimous agreement of all good Men to the only visible Means for the effecting thereof; which is an intire adherence to their Majesties King *William* and Queen *Mary*, in whom, as our late Deliverance, so our future Safety seems wholly wrapt up. Under their Government, if *Great Britain* will be at unity in it self, *Great Britain* will be safe and happy: Happy in a pure Religion, just Laws and Liberties, and a flourishing Trade. *Holland*, our Potent Allie, will be able to secure it self and help us; and in so doing, to confirm the Protestant Interest all over *Europe*. And all other the injur'd Princes of Christendom will be able to take their just Revenges against *France*, that aspiring Monarch, who, to gratify his Ambition, has basely abus'd all the Princes of *Europe*. Wherefore their Interest seems also involv'd in the present Affair, and they are oblig'd to hinder the *French* Tyrant from trampling these Nations under foot.

I hope I need say no more to make us unite: I shall add but one word to the scrupulous Clergy-men, some of whom do yet seem to hesitate and make a pause. Is it for fear of injuring the Church that you do thus? and I see no other Reason you can possibly pretend: Is it that you fear the Church of *England* should be undermin'd by some other Reformers? "Consider with your selves, whether we ought to stand upon the Interest of any one Church or Congregation, when the Concern of the Universal Protestant Church is in hazard? Can you expect if King *Lewis* (for I will not mention King *James*, as being only a pretended Name, as he himself, if he had any consideration, might perceive) Can you expect, I say, that either you, your Churches or Religion shall be preserv'd? No certainly you cannot, except you are blind.

The use the
Fr. King
makes of
K. James.

Happiness
of the Na-
tion under
K.W. and
Q. M.

What

What then remains to be done? Let us unanimously join in our Prayers to Heaven, in behalf of King *William* and Queen *Mary*, That God would protect and preserve them, and strengthen their Hands to the accomplishing that great Work which they have so happily begun, and hitherto so successfully carry'd on with the joint Consent of both Houses of Parliament, wherein all things have hitherto been carried on for the Advantage of the Church of *England*, and by God's Blessing and our own Unity will so continue. But if by Divisions and Animosities amongst ourselves, we give King *Lewis* a signal Opportunity of destroying us, we shall be the most contemptible, as well as the most miserable Nation upon Earth, and our Ruin will come upon us unpitied. How ridiculous will it appear in the Eyes of the present Generation, and how despicable will it sound in the Ears of Posterity, that the *English* Nation (hitherto reputed for its Wisdom and Constancy) should thus happily begin and carry on their own Deliverance and Security, and in the middle way resign both to a perpetual Overthrow?

ENGLISH LOYALTY:

O R,

The Case of the OATH of Faith and Allegiance to King WILLIAM and Queen MARY examin'd and resolv'd.

In a Letter from a Father to his Son, two Divines of the Church of England.

My Dear Son,

I AM not sorry to find in you, and in others of this Nation, a great tenderness of Conscience in relation to Solemn and Publick Oaths, and a reluctancy to take any new ones, which may seem to contradict or oppose the former. I need not tell you how Sacred Oaths have been amongst all civiliz'd Nations, and what respect we Christians and Protestants should learn by our late Experience to have for these Ties of humane Society, these Invocations of the Holy Name of God. I could heartily wish that the Wisdom of this present King and Parliament would favour the tenderness of scrupulous Consciences, where the Government is not likely to be endanger'd. I am certain this Moderation would be very pleasing to the whole Nation, and agreeable with the Prince's *Motto* and first Promise: *The Protestant Religion and Liberty, Je Maintiendray*: And would be a great indearment of such whose remembrance of Duty makes them dissatisfy'd, and so scrupulous, that perhaps no Reason will convince them. But we must leave the management of this, and of all Publick Affairs, and the Methods how to secure the Kingdom, to the Great Council of the Nation.

Whether
Oaths to K.
J. are obli-
gatory now.

My business at this time, in answer to your Request, is to examine, Whether he that hath taken the *Oath of Allegiance and Supremacy* to our former Kings, can in Conscience take the present Oath that is to be administred, and what Reasons may be given for his Compliance: for we must suppose that this Oath is not injoyn'd, as some do maliciously surmise, on purpose to displace the worthy Divines of our Church, that room may be thereby made for some of another Constitution. But we must believe that the Care and Wisdom of the Parliament will require it from all who are intrusted in any Office, for the publick Security of the King and Kingdom, in this juncture and time of Danger.

The Questi-
on stated.

Now there are two sorts of Men who are call'd upon to take this Oath: Some who have been formerly sworn to the late King *Charles* and his lawful Successors: Others who have taken the Oaths to King *James* in Person while he govern'd. The first have much more to say for themselves, because this present King and Queen are, and ought to be look'd upon as lawful Successors, by reason of the late King's Abdica-
tion,

tion, and the Circumstances of Religion, and apparent violation of the Fundamental Laws of the Government, &c. Therefore their Compliance is but a Repetition and Corroborating of the former Oath, and I see no reason for such to be so scrupulous as to think their late Obligations to King James ought to bar them from submitting to the present Oath. However if there be any, they will be sufficiently answer'd in examining the Case of the others; which I confess looks harder at the first prospect, but when seriously consider'd with all the Circumstances, they as well as the former, as I judg, may safely take this Oath.

I DO sincerely promise and swear, That I will be Faithful, and bear true Allegiance to their Majesties King WILLIAM and Queen MARY. So help me God.

First, Because such Oaths are both Conditional and Temporary, while the King is Governor, while he continues in the Kingdom, and takes care of the Publick Safety; and they are limited by two Circumstances, of Death and Abdication, if not by three, I mean the apparent overthrow of the Constitution of the Government, and the visible seeking of the Ruine of the Nation. As it cannot be imagin'd, that if a Prince be in his Grave, our Oath binds us to be faithful to a dead Corps; so neither can it be thought that we are bound to such a one who is dead in Law, who hath render'd himself incapable to govern us by a voluntary and unnecessary flight, or a renunciation. It had been judg'd a very moderate course to have sent an Invitation to return; but this is liable to great and many Exceptions, and cannot agree with the publick Safety, to which the Parliament have had chiefly an eye in all their Proceedings. Indeed we were bound to the late King James while he sat upon the Throne, and this Obligation did oblige us to behave our selves in Word and Deed as faithful Subjects to him and his Authority. But now his voluntary Absence, as it makes him unable to protect us, it frees the Subject from that Duty and Allegiance which we are otherwise bound to render. And if this be granted that we are discharg'd from one, we may safely, and ought to bind our selves to another lawfully possess'd of the Crown by the general Consent of the Nation.

The Oath to K. W. and Q. M. explain'd and vindicated.

Secondly, This is a Maxim recommended by St. Paul, That whatsoever we do, we should eye the Glory of God, and by consequence the Preservation of Religion. I need not mind you what danger Religion was in under the late King James, notwithstanding his frequent Promises, what violent Efforts were made to bring in the Abominations of Rome: How sedulous the Priests and Jesuits were to insnare and overthrow our Church; how restless they are like to be if they have such another Advantage over us. And can any Man think himself bound so visibly to oppose the Glory of God in this Nation, by encouraging the return of Popery, which they must needs do, who think themselves inseparably and indispensably bound by their Oaths to King James, and refuse this Oath to a Protestant King and the next Successor?

Preservation of Religion of what Consequence.

Thirdly, The Publick Good is so indispensably to be minded in all our Actions, as well as the Glory of God, that no former Oath can possibly excuse us from either. Now let any Man of Reason consider which makes most for the Glory of God and the Publick Good, the taking or refusing of the Oath: The one shews our dislike of God's Providence, and the wonderful Change he has brought to pass without our concurrence; the other discovers our submission to his Will. The one bespeaks us as ungrateful as the Israelites freed from the Egyptian Bondage, who meditated a Return; the other declares us willing to assist the Providence of Heaven, and to encourage the Wisdom of our Representatives. The one is an invitation to Popery and Slavery to return; the other is a publick Bar and Prohibition, when the World shall understand how unanimous we are in our Obedience to our present King and Queen, without longing for the late Garlick and Onions. Indeed our Case is much like that of the Israelites Deliverance effected by the Power of Heaven; only this advantage and difference we have, the Israelites were transported beyond the Seas, and out of a hard Slavery, they were brought to suffer the Inconveniences of a barren Wilderness, and encounter with Labour, Hunger, and Thirst. But God's Goodness hath carried over our Egyptians beyond the Seas, and caus'd us to remain in the Land of Goshen, in the full enjoyment of Plenty, Ease and Safety; and shall we be such Madmen to invite them over to oppress us again? Shall we think our selves so bound to our former Task-masters, as to be oblig'd, in opposition to God and his Providence, to encourage them to a return? St. Peter was freed by an Angel as we are, and did his Duty or Allegiance bind him to go back into Prison, or into the hands of Herod's

Publick Good always to be minded.

Obligations to the present K. and Q. are very great.

Herod's

Herod's Guards? If our Deliverance had not been as visibly the Hand of God as that of *St. Peter*, or the *Israelites*, there might be more colour for an Exception, or for minding of our former Obligations: but we cannot bear Allegiance to King *James* without being injurious to God, Enemies of his Glory, Adversaries to Religion, and disaffected to the Happiness and Prosperity of the Nation.

We commonly alledg in other Cases the Primitive Christians, and their Obedience to Magistrates, to be the Standard and Rule of the Church of *England*: What would they have done if *Julian* the Apostate had abdicated the Imperial Crown, and by flight with his Idolaters and Sorcerers into *Persia*, or other remote Countries, left the Throne vacant? We may easily guess by the Christians rude and uncivil Speeches of him alive and dead; I hope none of our Church and Nation will be guilty of such disgraceful carriage to our late King. But however, let us so far imitate the first Christians, as to be willing to vindicate our selves and Religion from the same apprehensions of danger as they were in, according to the late Example of the Protestant Kingdom of *Sweden*, whose condition was parallel to ours, when *Sigismund* a Papist came to the Crown, and endeavour'd to introduce the Pope and his Mass into that Christian Realm.

Protection
given by the
present E-
stablish-
ment.

But what did we swear to King *James*? and what are we requir'd to swear to King *William* and Queen *Mary*? Faith and Allegiance. And who sees not but these are the Returns of lawful Protection and Government? Why may not we be bound to both in their several Times and Reigns? The Loyalty between Subject and Prince, is not like that between Man and Wife; Death alone, and not Absence, dissolves the Union, and gives Licence for another Matrimony; but in case of Oppression, a Wife may sue for a Separation, and obtain it by Law. And why may we not in *France* bear true Faith and Allegiance to King *Lewis*, and in *England* be as Faithful and Loyal to King *William* and Queen *Mary*, whilst we act nothing as a Breach of our Faith against either, and we are in both Kingdoms at several times? Suppose the Master of a Ship is resolv'd to shipwreck his Vessel against the Rocks, or to deliver his Company Slaves to the *Turks*, shall not the Company take from him the Helm, and consult and provide for their own preservation? Or suppose that in a disgust he leaves his Ship and Associates, to fly to the Succours of Foreigners, that at last he might have his purpose, would any of them be so simple as to join with, and own him as their Commander, while he seeks their Destruction? All Societies are of greater value, and we are to have a more particular respect for the common Good than for any private Interest.

The reason-
ableness
of owning
their Ma-
jesties Au-
thority.

What hath the Nation done against their former Faith and Allegiance? I do not speak of such as were under the late King's Pay. We were not oblig'd to fight for him, and to hold him upon his Throne against his Will; neither could we in Conscience move for him because of the former Irregularities, Violations of our Laws, and Danger of our Religion. We were not bound to sacrifice our Lives, nor be Martyrs for *K. James's* Cause: Whilst we were quiet and peaceable, and acted not against the Laws and his Government, we did bear true Faith and Allegiance to him; and may we not do so now? may we not bear the same Faith and Allegiance to King *William* and Queen *Mary*? And is it not reasonable that we should be as well bound to them as they are to us by their Coronation Oath? Our Governors being chang'd by the Consent of the States of the Realm, not by Tumult or popular Fury, but by the Wisdom of the Great Council; why may we not in these Circumstances promise to be as faithful Subjects to King *William* and Queen *Mary*, as they have promis'd to be good Rulers to us?

The Subjects Allegiance, tho some may call natural, it hath always a respect to the Laws in being, and by consequence to the Compact and Agreement between Prince and People. And the same Laws are now in force to bind us to be true to King *William* and Queen *Mary*, as were to oblige us to be loyal to the late King *James*; and shall we scruple to promise to be obedient to these Laws by which we hold our Estates, enjoy our Lives, Liberties and Religion? It is a piece of Ingratitude, to receive from King *William* and Queen *Mary* the Benefit of Protection and Freedom, and to refuse to swear to them Faith and Allegiance.

Providence
visible.

And seeing there is a particular Hand of Providence, that hath crown'd their Endeavours in this strange Dispensation with wonderful Success, let not us of the Clergy, the Instructors of the Nation, the Directors of Consciences, be retrograde to the wise Council of the Nobility and Gentry, and oppose the Confirmation of that Government which is likely to exclude Popery for ever from us; but

but let me persuade you, my Son, and my worthy Friends Doctor S. Doctor M. and others to whom you may communicate these Lines, cheerfully to submit, and by your Example to encourage others to take the Oath now to be imposed upon us. So with my Prayers and Blessing, I rest

Your Loving Father, M. D.

AGREEMENT betwixt the Present and the Former Government :

Or a DISCOURSE of this Monarchy, whether
Elective or Hereditary?

Also of Abdication, Vacancy, Interregnum, Present Possession of
the Crown, and the Reputation of the Church of England.

To the READER.

SCRUPLE is an Ague of the Mind, it sometimes shakes it, and sometimes heats and disturbs the Brain: If the Matter be unknown to the Patient and to Doctors, we are not certain of the Cure; and the less, if the Stomach be untoward, and the Appetite averse to Medicine: in such a Case, various Methods used to be tried, and Remedies prescrib'd; but thro Ignorance of the Cause, or some latent Obstruction, Skill it self a long time is thrown away; at length perhaps a vulgar Medicine, given at a venture, hits the Distemper, and works the Cure. After many learned Doctors charitable Endeavours to deobstruct and ease some good Mens Minds, that are shaken with Scruples about the new Oath of Allegiance, hitherto in vain (if it be yet in vain) tho I cannot boast of my Skill, I make bold to try a new Practice upon them. And I hope my good Reader hath the like Reverence and Value for the worthy Persons that yet labour under (may I call it) the Disease, and the same Zeal and Affection for the Health and Quiet of the Body Politick, that I my self have, and doth join with me, while I do heartily (that which I fear Physicians seldom do) pray over my Patients for a Blessing from the great Physician.

C H A P. I.

An Introduction grounded in a general Maxim.

The general Maxim,

Unnecessary Changes in Government are to be avoided as dangerous.

UPON any great Revolution it seems much the Concern of the New State, so to settle the Government, as may offer least matter or occasion of Discontent to the People, and consequently to make as little Alteration in the former Maxims and Customs (that is, in the old Constitution) as is possible, lest the old Leven should work again to the prejudice of the new Establishment.

We may observe in our own History, that such publick Grievances as from time to time have been objected by the People to the disquieting, and sometimes hazard-ing of the Government, have generally been aggravated with the charge of Innovation, as being contrary to our antient Liberties, Rights and Customs; and for some Ages, in Instances infringing *Magna Charta*, that great Record of the Subjects Privileges, and Codex of our antient and common Law, in which much of our old and happy Constitution consists. Indeed any Alteration in our Constitution, seems to shake the Foundation, and frightens the People like an Earthquake.

This Maxim is commended by three great and well known Examples.

1. Our Saviour's.

*Unnecessary
Innovati-
ons to be
avoided.*

This Caution was sanctified after a marvellous manner by the Wisdom of God in our great Exemplar: Our blessed Saviour, we know, was sent into the World to put the Church into a new frame; now in his so doing, did he reject all that was old, or leave out any thing that might be any way serviceable in the new? Is it not remarkable, that he did resume and make use of as many of the old Materials as could possibly be accommodated to the Edification of the Gospel-Church? Did he not take both the Sacraments, did he not collect the very Petitions of his Prayer out of the former Usage, and allude much in the new Government to be establish'd, to that which he found in the old? Did he not preach and expound the Law of *Moses*, and the antient Prophets, and appeal for his Defence and Justification to their own Books? Indeed he seems to have left out nothing of the old Dispensation but what was inconsistent with the new, namely, that which was typical and expir'd in the Truth, and that which was purely judicial, and therefore ceased with the temporal Government of the Jews, which our Saviour was not then come to take upon him.

Now, was not all this Accommodation of our Saviour to *Moses* wisely as well as graciously contriv'd, that the People, for whose sakes he was first sent, might not be offended, or startle and fly from him upon the Scandal of Innovation?

Yea, so tender was our Saviour of them in this Point, that during his whole Life, both he himself, and his Disciples by his Commission, address'd only to the Jewish Nation; that the greatest Scandal by the call of the Gentiles might be avoided, and they might still appear to be God's peculiar People, while there were any the least hopes of them.

According to their Lord's method and example, we afterwards find his Apostles in a great Council, held and decreed it as a necessary thing, for some time to retain and practise some legal Ceremonies, even after they were all really abolished in the Death of Christ; that if possible they might thus gain, that is, reconcile the stubborn People to the new Establishment, or at least leave them without excuse.

Afterwards, the fear that possessed the Christian and believing Jews of too great Alteration to be made by the Gospel, occasion'd that sober Advice we read of in *Acts* 21. 20, 21, 23, 24. of the Church to St. Paul: *Thou seest, Brother, how many thousands of Jews there are who believe, and they are all zealous of the Law: And they are informed of thee, that thou teachest all the Jews who are amongst the Gentiles, to forsake Moses, saying, That they ought not to circumcise their Children, neither to walk after the*

the Customs. Do therefore this that we say unto thee—that all may know that the Information against thee is nothing, i. e. of no moment; but that thou thy self walkest orderly, and keepest the Law.

2. Of the Church of England in the Reformation.

Upon this ground some have thought it a Point of commendable Prudence in the Church of England, that her Reformation at first proceeded with so much Moderation, and no greater Alteration, either in the Service or Government of this Church; whereby she quieted the Minds, and drew into her Communion so many of the moderate Papists, both in the Reign of *Edw. VI.* and in the beginning of *Q. Elizabeth's*; and whereby, thro the wonderful Mercy of God, she hath been so long preserv'd, even in the midst of her Enemies on both sides. *Moderata durant.* And since that you have her candid Apology to this purpose in these words: “Accordingly we find (saith her Preface before the Liturgy) that in the Reigns of several Princes since the Reformation, the Church upon just and weighty considerations hath yielded to make such Alterations in some particulars, as in their respective times were thought convenient: yet so, as that the main Body and Essentials of it (as well in the chief Materials, as in the Frame and Order thereof) have still continu'd the same unto this Day.”

Moderation of the first Reformers.

And we may remember, that when some furious Zealots for Popery made a Commotion and Rebellion in the time of King *Edward VI.* their pretence was, that there were great and intolerable Alterations in Religion; and that in their Wisdom, the King and his Council thought it a proper course to allay their Heats, and to pacify and reduce them to Obedience, to let them know how small and few the Alterations complain'd of were; and that their Service before in *Latin* was now made *English*, that they might understand it.

The Reformation in *England* was carried on without Affectation of Novelty, tho it justly abandon'd the former Superstitions and Idolatry.

3. The Example of William called the Conqueror.

This like Policy is observable in *William* the First; for tho the Success of his Arms carried the Colours of a Conqueror, yet he seem'd unwilling to trust wholly to that Title: he shook all indeed, but endeavour'd too, that things might go back as they could, and settle more firmly upon the old Basis. (a) He therefore added to, or rather seconded his Sword with a Pretence of Right to the Crown, *Jure Hereditario vel Testamentario*; and then afterwards they say, he proceeded to accommodate the Administration of his Government to the Humours of the *English* People, and the antient Rights and Customs; I mean so, as the Time and present State of things would give way: so that whatever his Title was, he accounted the Satisfaction of his People the best Security to his quiet Government. Certainly something he did to this purpose, since we find it disputed by some learned men, whether this *William* the First was King by Conquest or Compact. *Petit, Brady,* and others.

The Policy of Wm the Conqueror.

If the former Maxim be allow'd, I may have leave to apply it to our present Establishment, in two Inferences.

First, Seeing, as we have heard, upon such Revolution, a departing from the former Constitution (beyond what is necessary in the very reason of the Change) is to be avoided as unsafe or dangerous; we hence seem to owe that Charity, yea that Justice and that Honour to those great and wise Instruments in our late Revolution, as to presume they have done it with Prudence agreeable to that great Maxim; that is, that at least they intended not therein to depart farther from our former State, or to alter any of our allow'd Maxims or Customs, that lie at the bottom of our antient Constitution, as our Common Law; I mean, beyond such Necessity, or beyond what hath been declared by the King and Parliament.

Application to the present Circumstances.

For if any thing contrary or dissonant to our Rule was discours'd in some previous Debates before the Settlement was made, and all such Debates were determined in the Law; I say, if any such things then happen'd, they ought not now to be remembred or mention'd as other than the motion of particular and private Per-

(a) *Vid. Chron. Eccl. Liñi. Seld. 171. Fortesc. de Leg. Vol. 1.*

sons: and by no Rule can they be thought to pass into, or any way affect the Publick State, as 'tis now settled by Laws exclusive of them.

Again, If any thing should yet be thought doubtful in the Laws or Method of our present Establishment, methinks by the help of the same Rule all such Doubts may be speedily resolv'd; I mean by an Interpretation favourable of our former State.

Especially if it be seriously weighed, how far such a Sense may contribute to the Quiet of the Minds of a multitude of men among us, that perhaps are too fond of old, and averse to new things.

But principally, for the saving of the Wisdom and Honour of our Governors; and the better securing the Government upon a tried Basis; and the more firmly rivetting it in the Affections and Satisfactions of the Generality of the Kingdom.

This is considerable, when Unanimity and Unity by such Satisfaction, cannot but be thought at least expedient for our common Preservation from the subtil Designs and threatening Attempts of our Enemies.

Pardon me if I make bold to demand, why the general Sense of publick Danger by means of the Offence so many take from the disagreeableness of too strict an Interpretation of some doubtful Words and Practices touching our present Settlement, from our former; Why may not, I say, so general a Sense and Fear in the People, who were represented in the Settlement, be modestly thought to have some Right to reconcile such Doubts (if such are left and not fully cleared by our Law-makers) to a Sense more agreeable to our former Constitution, and as near as may be?

Liberty
allowed to
explain
doubtful
Laws for
the publick
Safety.

At least where the Law is not expresse, it cannot in reason be interpreted by private Persons to such a Sense as is counter to general Satisfaction, and the publick Safety both of the King and Kingdom; and this we have heard is hazarded by forsaking the old beyond necessity, and laying too much stress upon a new Foundation. We ought to be wary of wresting words or things that seem doubtful, especially about Government, to such ill Consequences, as the cherishing Faction, the disturbance of Loyalty, the reproach of our Rulers, the scandal of the Law, and the unsettling of the new Establishment, wherein all our civil and religious Interests are undoubtedly concern'd.

Secondly, From the Premises I must infer, that an Essay to reconcile our present State with the former is at least pardonable, if not reasonable and expedient, not to say necessary.

Here I am encourag'd to lay the ground of my Apology for this bold Adventure, and I hope no peaceable or good Man will be offended, much less any of our Rulers be provok'd, with a modest and well-meant Endeavour to prevent much harm, and to do a great deal of good in my opinion. If I am mistaken, *humanum est*; but I am sure I intend well, and pursue a good Intention sincerely according to my own Apprehension: This satisfies my self, and methinks it should offend no body.

But I must speak plain: For if unnecessary Alterations in the Frame of Government be indeed dangerous, and we find an evil Surmise and groundless Suspicion hereof with respect to our late Revolution, already fermenting among us, and spreading the sourness of Dissatisfaction, Discontent, and (I fear) Faction, over too great a part of the Nation, and prevailing so far as to dishearten our Friends, to animate our Foes, to increase our Fears, to continue our Troubles, and almost shake the Establishment.

Popular
Mistakes
to be re-
moved.

If matters are thus with us, I must have leave to say that a Man can hardly do better Service to the Publick at this season, than by endeavouring to remove such popular Mistakes about the method of our present Settlement, and the nature of the Government, as seem to have such malevolent Influences and unhappy Effects.

Now I conceive this is to be done in a good measure, by shewing that the Alterations from our former State made in the present Government, are not so great or many as our discontented Men imagine, and our Enemies suggest. But if it be made evident, that in a fair and charitable Construction of things we stand firm upon the same Basis we ever did, and that the Constitution of the Kingdom founded on our antient Maxims and Customs, with respect to our Government, is not alter'd or touch'd by the late Revolution; I say, if this can be effected, I am apt to think many doubting and scrupulous Persons among us may be satisfied, and happily reconcil'd to a better Opinion of the present Government, and a more cheerful Submission to it.

If I knew any better Argument to justify our Rulers, to vindicate the Government, to establish the Kingdom in Peace and Safety, and to defeat the Designs and Forces of our Enemies (*who live and are mighty*) than this before us, I would certainly use it the best I could; but I have no better, therefore I crave Acceptance of my Apology, and Leave to adventure upon my Task.

CHAP. II.

The Chief Maxims insisted upon as prejudic'd by the late Settlement.

IT may run in the minds of some scrupulous Persons, that there are old Maxims that lie at the Root or Foundation of the Kingdom of *England*; and that these are destroyed or subverted by the new Model; and consequently the Constitution of the Government is quite alter'd.

Those old Maxims may be thought to be such as these.

1. That the Government in *England* is Hereditary.
2. That it admits not of an *Interregnum*.
3. That nothing binds the People of *England*, but an Act of Parliament.

Three
Maxims
considered.

Now perhaps 'tis thought that the Government is now made Elective, and therefore is not Hereditary.

Again, that it having been declar'd, that by the late King's Abdication there was a Vacancy in the Throne, therefore an *Interregnum* was admitted.

Lastly, that this new Change was made by a Convention, and not by a Legal Parliament, and therefore we are not bound to own it.

Such kind of Suggestions as these, I fear, have created Shyness and Aversion in many good Men from a due Recognition of the present Government; but if we can make it appear, that in truth they are vain and groundless, I hope all good Men will be easily intreated to lay aside that Aversion, and be sweetned to a better Compliance, both for the sake of the Publick, and their own.

We proceed to consider every one of them in order, and the several Grounds or Reasons they seem built upon, and whence they are alledg'd and objected.

CHAP. III.

The Government whether Elective or Hereditary, and how.

IT may be thought by some, that by the late Change the Government is made Elective, and therefore is alter'd, and is no longer Hereditary, as it was before.

The Vanity of this Argument appears, if we make good these two Propositions.

1st, Our Government was never so absolutely Hereditary as to exclude Election in all respects.

2^{dly}, In our late Settlement there was nothing done in prejudice of our Hereditary Government.

Prop. 1. The first of these Propositions, viz. That our Government was never so absolutely Hereditary, as to exclude Election in all respects, appears,

First, Because all along in our Histories, we find the Words [*Election* and *Elect-*
ed] used as previous to the crowning of our antient Kings.

Some of them came to the Crown without any colour of Title. Some, tho not next in Blood, by the Nomination of the last King. Some only as being next in Blood, without such Nomination. And lastly, some both by Proximity of Blood, and by the Nomination or Testament of the Predecessor.

Now if in History all these are said to be elected, certainly we have no reason to be offended with the Word, or imagine that our Government abhors all kind of Election.

But this is plainly acknowledg'd by the industrious Dr. Brady, while he is in the pursuit of the Hereditary Succession; the *Saxon* Expression, saith he, concerning Saxon
Suc- Kings.

Election amongst the

Succession and the Successor, is always the same, *Feng to Rice*, render'd usually *successit, electus est*, he took possession of the Kingdom, he succeeded, he was chosen, &c. *Hist. of Success.* p. 366.

Edgar left his Son Heir of the Kingdom, and the Great Men chose him (*elegerunt*) as his Father had commanded.

Harold, Henry I. and K. Stephen obtain'd the Crown (they say) by Fraud and Violence; yet by several old Monks are said to be elected.

Brad.
Gloss. p.
38.

They said, some of our Kings that had undoubted Hereditary Titles were elected; so K. Henry II. *ab omnibus electus*; so likewise K. John and Richard III. are said to be chosen, as he observes in his Parallel, p. 412.

But to do the Doctor right, I confess he contends earnestly, that however the Words were us'd in such cases, indeed there was no such thing as Election or proper Election of any of those Kings, and that Election signified only Recognition, Applause or Proclamation, and sometimes only a forc'd Submission; at least they were never chosen by the Community of the People, as they are now understood, but by the Great Men of the Kingdom.

But that Controversy I leave betwixt the Doctor and his Adversaries; observing only for my present purpose, that our antient Kings, both Saxons and Normans, are in the Chronicles of *England* frequently said to have been chosen or elected.

So much for the Word: And now with the leave of the ingenuous and laborious Man lately mention'd, I would modestly enquire whether we find not some strokes in our History of a real Election of our Kings in some Instances at least, so far as to interrupt the strict Opinion of hereditary Succession. And here I have no need to assert the Election of the People, or go off from the Doctor's own ground or concession, either about the antient Practice, or the declared Judgment of the Kingdom.

Succession by
Inheritance
or Will.

1. In the Saxons time, the Doctor saith, he hath discover'd a sure Rule of Succession; but this was double, either Right of Blood, or the Nomination of the preceding King: 'tis confess'd then that Right of Blood was not the only Rule. Hence he lays down his ordinary distinction of *Jus Hereditarium* and *Jus Testamentarium*; yea he tells us, that the Testamentary Heir, that is, one that comes to the Crown by the last King's Will, tho not next in Blood, is said to inherit.

But to apply this Distinction, methinks it doth two great things; it First plainly yields the Cause so far, as to the necessary Descent of the Crown in Proximity of Blood: Secondly, it gives a shadow at least of Election, if not in the People, yet in the King, if by his last Will he might pass by the next in Blood, and name (which is properly to chuse) another to succeed him in the Throne. Besides, if this was antiently done, both frequently and lawfully, where shall we found hereditary Government in the strict sense of it in the Constitution of the Kingdom? or how shall we defend it from being in no wise elective?

Testamen-
tary heirs
chosen by
the People.

Yea, if the King himself upon some Considerations might chuse his Successor, and set aside the next in Blood without wronging him, certainly upon great Considerations the like may be done by both the King and People. And we find that Testamentary Heirs of the Crown, tho they were indeed nam'd by the King, are said to be chosen by the People, and yet are also said to inherit; and if we observe it narrowly, we shall easily note, that the words *Hereditary* and *Elective*, with respect to the Government, are sometimes confounded; *Successione Hereditaria eligere*, was no Contradiction. The Testament of *Ethelwolph*, Florence of *Worcester* calls it *Epistola Hereditaria*; by which it is said, he set aside his own two Sons, as the Doctor notes, p. 363. where he tells us moreover what the Law of Succession, as well as the Practice then, was; the Saxon Kings, saith he, might appoint a Brother's Son or a Bastard to succeed them, before their own lawful Issue.

Succession
not always
tied to
Proximity
of Blood.

But to come a little closer: I may demand where, when, or how this Maxim [that the Crown of *England* is necessarily annex'd to Proximity of Blood in the Royal Family] came to be of the Foundation or Constitution of our Government? That it was never made so by Custom or any other Law, or by any other means, the learned Doctor yields us, by his Refuge in a Testamentary Heir.

I am assur'd under the Hand of a very learned Lawyer, who is a great Friend of the Hereditary Monarchy, that this Maxim (in contradiction to the former) [the Crown was alienable and devisable] was retain'd, and never contradicted until the Resignation of K. John: and since that time how hath it been contradicted or denied either in Practice, or the declar'd Judgment of the Kingdom? It is evident enough what the sense of the King and Parliament was in Henry VIII's time, and

and since in Queen Elizabeth's, and since that in our late Parliament's.

And nothing to the contrary can I think be fairly infer'd, either from that Act of 7 Hen. IV. that limited the Succession of the Crown to his Sons in order, and their Issue; or that of Hen. VII. that limited to the Heirs male of his Body, and no farther; or the Recognition of K. James the first. For by that of Hen. VII. it is plain the Parliament thought they had power to limit the Succession, otherwise they would not have meddled with it; besides they limited it indeed, by extending it only to the Issue male of his own Body. And as for the Recognition made to K. James, it seems to be the clearest and fullest acknowledgment of an hereditary Succession, yet we may observe how it is expressed; 'tis indeed declar'd, that the Imperial Crown did belong to him and his Royal Progeny and Posterity for ever: but 'tis not said, of necessity, notwithstanding any Reason to the contrary, it shall actually descend to the next in Blood in order for ever. Besides, they say in the same Act, that this their Recognition could not be perfect to remain to Posterity without the King's Consent, that is, to make it an Act of Parliament. And doth not that imply, that Hereditary Succession of the Crown was not accounted to be fundamental to our Government before? For then it would have been perfect in it self, without the King's Consent. Besides, it seems evidently to follow, that the Kingdom at that time judg'd that the Succession of the Crown was limitable by Act of Parliament.

K. J. the first.

Yet lest after all this I should be mistaken, I make this observable from our own Histories, that tho sometimes the next in Blood hath been set aside, and for ought I find to the contrary, upon Reasons of State may be so again, yet it seems the Royal Family have *Jus ad Rem*, and have Right thereunto before any other, if any Member of the Royal Family be capable of Government: so I think we find it generally carried; that is, when the next in Blood hath been omitted, generally some one, either really or in pretence of the Royal Family, hath been advanc'd to the Throne.

This general Right to the Crown by Blood, hath been sometimes pleaded by our Kings, and allow'd by the People and Parliaments, but never denied: and tho we cannot say, the next in Blood hath an uncontrollable and immediate Right beyond all exception, to enjoy the Crown; tho we cannot find this Right in the constant usage as Common Law, and a Fundamental of our Government, yet we may grant that in all Turns and Temptations to the contrary, the Right of the Royal Family seems to have countenance, if not plain and general acknowledgment, and to pass unquestionable with the silent Testimony of many Ages.

Next in Blood has not always an immediate Succession.

I am sorry to observe with Daniel, that (before this last Age) seldom or never the third Heir in a right Descent, enjoy'd the Crown of England.

In Vic. Hen. I.

It cannot be denied, but that our Parliaments have frequently concern'd themselves about the Succession; and that our Kings, both such as came to the Crown by proximity of Blood as well as those that came to it otherwise, have often applied themselves to the Parliament, not only for their own Security, but to limit and qualify the Succession after them.

Succession often altered.

Yea further I think it must be granted, as one saith smartly enough, "That 'tis a most dangerous thing to have an Opinion prevail, that the King in concurrence with his Parliament should not have Power to change the direct order of Succession, tho the preservation of him and his People did depend upon it."

Yet after all this, if Common Usage be Common Law, and continued Practice be our Rule of determining this great Point, I think the Royal Family have a radical Right in the Government of England, and bids fair for an Interest in the Constitution of the Kingdom; for it seems to have governed the Disposition of the Crown all along, both before as well as since William the first; and that generally with our several Kings and Parliaments, ever since we had any.

Right in the Royal Family.

I shall leave this easy Observation, only take notice of two Concessions, which I apprehend considerable: The first is that of Dr. Br. He saith, the Saxon Kings might appoint a Brother's Son or a Bastard (he doth not say, any other Person, or any one out of the Royal Family) before their own lawful Issue, to succeed them in the Throne, p. 363. *Succession of the Crown*.

The other is of Hubert A. C. at the Coronation of K. John: He declares indeed that the King ought to be elected by the People (perhaps a new Doctrine to many that heard it) yet he qualifies that Election, and tells them, that if any one of the Race of the late King was more deserving than others, the People ought (*promissus & promptus*) more readily to consent to his Election.

K. John how elected.

Now

The Royal
Family
makes the
Monarchy
Heredita-
ry.

Now if the Descent of the Crown ought to be kept within the bounds of the Royal Family, is not this sufficient to constitute an hereditary Monarchy in a true sense, tho with the former latitude? Was it ever thought essential to an Inheritance, to pass uncontrollably without any exception to the first in Blood? Is it not enough for the nature of an Inheritance, to be granted to me and my Heirs? And may not Custom dispose it to the younger as well as the elder? Hath not the Parent liberty to give it to whom he will? Yea, is it consistent with a Fee-simple to be unalienable? or with *Salus Populi*, in all possible Cases, for the Crown to be so? Especially in our own Kingdom, where frequent Practice seems to have established as the Common Law of the Crown in all Ages, that upon urgent Reasons for the Safety of the Kingdom, the Inheritance is alienable from the next in Blood. Nay, I must presume, that tho upon some extraordinary Revolution, and some absolutely necessary Reason of State, for our common Preservation, a Stranger should be advanced to the Throne, for one or more turns, while that necessity continues; I presume, I say, if when the Reason of that Violence is remov'd, if care be taken to have the Crown restored to the Royal Family, or any of its Branches capable of it, the *Hereditariness* is not thereby extinct, or the Constitution of the Government alter'd, things may then run again in the old Channel, and settle upon their old Bottom.

Privilege of
Primogeni-
ture.

And since we are gone so far, may I not without offence advance one step farther? Is there no Privilege by Primogeniture? Doth not Nature and the general course of Inheritances, where there is no special Reservation or Exception, point out the next Heir for the Possession? Yea, is there not very much to be found in our Chronicles, and Laws, and actual Succession of the Crown, in favour of the next Heir by proximity of Blood? Can we find by our most diligent search of our publick Records, that ever the next in Blood was set aside, without some Reason or pretence of Reason? which very thing seems to allow his Right, whilst it alledges something against his Possession. Whence we may conclude, that tho for sufficient Reasons the next in Blood may be set aside, yet without such Reasons it seems neither just nor fit that he should.

The Royal Family have a Right in *Actu primo*; the next Heir seems to have it in *Actu secundo*; namely, a *Jus in re*, and as much a Right as can be conceived short of Possession, if nothing can be justly objected against it from his Unfitness for the Government. Immediately upon the Decease of the Queen (saith the Parliament in their Recognition of King James the first) the Imperial Crown did by inherent Birth-right descend to you the next Heir of the Blood Royal.

Thus the Royal Birth-right hath the Acknowledgment of the whole Kingdom, or the whole Body of the Realm, and every particular Member thereof, as the Words of the Statute are; and this Birth-right hath been often claim'd and often frustrated, but I think never denied, or so much as unquestioned.

Prop. 2. *There was nothing done in prejudice of our Hereditary Monarchy, by our late Settlement.*

This is the other Proposition I undertook to make good in defence of our present Government; and reflecting upon what we have lately discoursed, we are necessitated to take notice of, and to set our selves to answer a very considerable Objection thence arising, as some strongly fancy.

Obj. Hence we are fain upon the great Objection; 'tis thus, If the Right of the Crown be inherent in the next in Blood by birth-right, why upon the Demise of the late King did not the Government devolve on his Daughter the Princess of Orange? Preferring the Prince of Orange before the Princess, whose right it was, seems not agreeable to an Hereditary Monarchy, and so makes the Government Elective.

Ans. I hope there are already sufficient Grounds laid for an Answer hereunto: all that I have to do is to apply them in a few plain Propositions.

1. We have found reason to distinguish thus: the Crown may be thought alienable, either absolutely, or in a qualified sense; that is, such a sense as is consistent with its being Hereditary.

2. One may think that the Crown is not absolutely at the Peoples Disposal, in our (or in any) Case, or alienable upon any Occasion, or to any Person; and yet may conceive that upon plain necessity, created by *Salus Populi*, the Supreme Law, and the very end of Government, the Crown may be alienated from the next in Blood to the second, and upon the like reason to the third.

3. 'Tis

3. 'Tis further evident to me, that a man of that Perswasion may yet judg that the next in Blood that is capable of the Government, may of Right, and by the Law of Inheritance claim the Crown, which without Injustice cannot be deny'd him.

4. It hence followeth, that the Supreme Power upon the Demise of the late King, did not devolve upon the People, nor immediately upon the Prince of *Orange*, but upon his Princess. Upon these grounds indeed it must be granted that the Princess should have been Queen as Queen *Mary* was, that is, in the place of the King; and next to her the Princess of *Denmark*, unless some very great Reason of State will justify the preferring the Prince, who is not next in Blood, before them both.

5. Doubtless those whom we intrusted to manage and methodize our Settlement, saw, as they judg'd, unanswerable Reasons to advance the third in order, before the first and second, and methinks that should satisfy us.

*Reasons for
the present
Settlement
of the
Crown.*

6. But moreover we are morally assured that both those noble Princesses were themselves satisfied of the Reason of it; yea, that both of them consented, yea desired the Crown might be settled in the order as it is.

7. And may it not be very reasonably granted, that some great Considerations (tho we know not what they were) might move them *cedere de jure suo*, to wave their own Right, and these such as might warrant and justify their so doing?

8. Yea, if there be such a thing as Abdication of Government, did not both those noble Princesses expressly, and not only by Implication, so far abdicate the Government, if they actually and voluntarily so far refus'd it?

Obj. But had not the Prince of *Denmark* some kind of Right in and by his Lady?

Sol. It seems to me he had; but it is very evident that he consented and wav'd what Right he might have, as both the Princesses did theirs.

Obj. But the People of *England* seem to have a Right to be govern'd by the next in Blood of the Royal Family.

Ans. This too may be granted: but the People of *England* in this sense, are the Lords, and the Representative Body of the Commons; and have not these both consented to, and transacted the present Establishment for themselves and us?

To conclude this, Upon the late Demise, nothing could bar the Prince of *Orange* from a just and immediate Title to the Crown of *England*, but the Right of his Princess, the Right of the Princess (and in and by her of the Prince) of *Denmark*, and the Right of the Nation in these: but all these Bars are fairly remov'd by the Consent and Desire of all Parties concern'd, and none have left them any cause to complain in that respect.

*Consent of
the Parties
concern'd.*

Now I hope there is nothing done destructive of the Hereditary Monarchy, nothing that can infer the Government to be purely Elective in the whole Transaction; much less so great an Alteration in the nature of our Government for the future. What Principles some went upon in our late Change, we need not guess, so long as we find nothing evident, either verbal by Declaration of our Governours, or by any thing in the Change it self, but what is fairly reconcilable to our antient Constitution; we may, without troubling our selves with other Mens Principles, chearfully submit to the present Government, if we have no more to object, but that the Nature of the Government is alter'd by the Revolution. And evil Surmise without ground ought to be laid aside.

C H A P. IV.

Of Vacancy, and the supposed Interregnum thereupon, by the late King's Abdication.

WE are thus led to the second great Exception, which is this: It is declared by the Lords and Commons in the Convention, that the late K. *James* the Second having abdicated the Government, the Throne thereby was vacant; consequently an *Interregnum* was admitted or supposed, contrary to the antient and known Maxim, That in the Government of this Kingdom there is no *Interregnum*.

For answer hereunto, I hold my self oblig'd to do two things: First, To consider how and in what sense the late King abdicated the Government; this may justify the filling the Throne with the present King and Queen. Secondly, To shew that there hath been nothing said or done by the Convention as such, that hath declar'd a Vacancy in the Throne in that full and absolute sense as might infer an *Interregnum* in the true meaning of the word. And thus the Present Government will be vindicated and reconcil'd with the Antient, and this great Exception I hope fully satisfy'd: and this methinks I am strictly tied to by my last Discourse of *Hereditary Monarchy*, as will presently appear more plainly.

C H A P. V.

Of A B D I C A T I O N.

FOR the first, That the late King did really abdicate the Government, hath been so fully spoken to by others, that I need not much labour in the proof of it. My chief Intention is to reconcile the Word to the Notion of my Brethren that are so much offended with it.

*Abdication
explain'd.*

1. I desire them to consider it is a Law-term, and but seldom us'd amongst us; why should we not take the signification of it from the Learned in that Faculty?

2. But 'tis of greater weight, that the Lords and Commons differing about this Word at their Conferences, such a sense was beaten out after much Debate and Argument, upon the very same grounds on which many seem now offended with it, that the Wisdom of the Nation in both Houses acquiesc'd in this Word as the fittest for the purpose. By our Election we intrust them with all we have, and cannot we trust them with a Word?

3. That which seem'd to reconcile the two Houses in the word *Abdicate*, was not the critical Notions of the *Civilians*, but the Explication of what was then to be meant by it, which I am told was happily effected by one (who is a Wonder in the Learning of the Law) in these or the like words, in which before they were agreed.

“ That King *James* the Second, by going about to subvert the Constitution, by
“ breaking the Original Contract between King and People, and by violating the
“ Fundamental Laws, and withdrawing himself out of the Kingdom, has thereby
“ renounc'd to be a King according to the Constitution, by avowing to govern by
“ a Despotick Power unknown to the Constitution at his Coronation; such a King
“ to whom the Allegiance of an *English* Subject is due: and has set up another kind
“ of Domination, which to all intents is an Abdication, or abandoning his Legal
“ Title, as fully as if he had done it by exprefs words.

Now if these things were true, as no body I think can deny, and amount to an Abdication in the just, and publickly own'd and explain'd sense of the Word, how is it possible we should any longer scruple about it?

Object. The meaning of it then is, that King *James* thus ceas'd to be King; but this is doubted.

Sol. But the Body of the Kingdom say he did; and you will not say but 'tis possible: for a King may cease to be so, by a voluntary Resignation in Word or Writing, which is formal Abdication; or, as *Grotius* seems to expound the word by *manifeste habere pro derelicto*.

*K. J. his
Actions signify his
Abdication.*

2. Now if the late King did as much by his Actions as an exprefs Abdication amounts to, did he not virtually and as really relinquish or abdicate the Government, as if he had in so many words renounc'd it?

3. And that he did so, is too evident by what is before alledg'd against him, especially if we add his putting down the antient Defence of the Kingdom, the Militia, and beginning to rule and defend his Arbitrary Government by an illegal Standing Army; if when he voluntarily departed from us, he dismiss'd his Judges, threw away the Broad-Seal, and disbanded and let loose upon us his illegal Forces, and left us in a perfect Anarchy, as was then apprehended even by such as now are offended with the word *Abdication*.

The Caution of the Convention, to avoid all colour of Offence, seems admirable. If they had said the late King had forfeited the Crown, that would certainly have more offended you; and if they had depos'd him, much more: these are both avoided, and 'tis only said he abdicated the Government; they do not only say it was his own Fault, but his own Act.

Object.

Object. But thus we make him *Felo de se*.

Sol. This seems to be no hard Saying. 'Tis plain, tho the King in his personal or natural Capacity cannot as you think forfeit his Life, yet he may die or kill himself: *Felo de se in a political Capacity.* So in his politick Capacity, if we grant that the King cannot forfeit his Government by Male Administration, yet 'tis possible he may extinguish and destroy it, and that by a real as well as by a formal Abdication, as before explain'd. Government according to Law, is essential to our Government, otherwise our Lawyers are much out, that generally tell us our Government is a Legal, Regal, or as *Fortescue*, a Political Government, in opposition to Despotical, Absolute, Arbitrary or Tyrannical Government. Now tho a King do not intend absolutely to abandon all kind of Government, yet when he leaves the proper Government, and assumes another kind of Government abhor'd by our Constitution, he plainly ceases to be our Governor in any sense; he refuses to govern politically; he would bring in another Species of Government that is destructive of our Constitution; and begins in many odious Instances the execution of Tyranny, contrary not only to the Laws that make and limit our Government, but contrary to the Ends of all Government, and instead of protecting destroys his People: What can be plainer than that this is to abdicate the Government as King of *England*? A King may kill himself and not intend it.

To this purpose we have several notable Collections made by others. I shall note a few of them.

Among the Laws of King *Edward*, C. 17. *de Regis Officio*, the Liberties of the People being mention'd, it is said, that the King is constituted for the preservation of them, which if he does not, *nec nomen Regis in eo constabit*, he doth not retain the Name of a King. *Laws of K. Ed. the Confessor.*

Bracton says, l. 2. c. 24. *Est enim Corona Regis facere Justitiam & Judicium, pacem tenere, sine quibus consistere potest nec tenere; i. e.* The Crown of the King is to do Justice and Judgment, and to preserve Peace, without which he cannot subsist. *Bracton.*

But above all, the words of King *James* to his Parliament *March 21. 1609.* are remarkable: "The King is bound by a double Oath to preserve the Laws tacitly as being King, and expressly by his Coronation-Oath: So as every just King is bound to observe the Paction made with his People by his Laws, framing the Government thereunto; and a King leaves to be King, and degenerates into a Tyrant as soon as he leaves off to govern by Law: in which case the King's Conscience may speak to him as the poor Woman to *Philip* of *Macedon*, Either govern according to Law, or cease to be King." *K. J. 1.*

Answerable hereunto is the *Civilians* Maxim, *Tyranni in Exercitio decidunt Jure suo Hereditario; i. e.* Tyrants by their Tyranny lose their Hereditary Right of Government; for the Ill of Monarchy is Tyranny. King *Charles's* Answer to the 19 Propositions. *Tyrants lose their Rights.*

From what hath been said it seems plain, that a King by relinquishing the Legal, and usurping an Arbitrary or Tyrannical Government, does as effectually abdicate the Government as King, as a Merchant that turns Pirat, abdicates his Trade; or a Husbandman that leaves off his Husbandry, and resolves to cast the Fortune of his Life upon robbing on the High-way, abdicates his Plough.

Lastly, 'Tis so evident in those that give us the Sense of the word, that there is a real Abdication, as we have consider'd it in distinction to a formal, that no body that will take the pains to examine can doubt it. Not only *Grotius de Jure Belli & Pac.* lib. 2. c. 4. §. 4. *Non tantum verbis sed re potest:* But *Calvin* in his *Lexic. Jurid.* tells us, *Generum abdicat, qui Sponsam repudiat;* he that divorces his Wife, doth abdicate his Son. So *Homo liber qui seipsum vendit, abdicat se statu suo*, saith *Brissotius de verb. sign.* that is, he who sells himself, abdicates himself from his former State. And *Budæus Comment. de Origine Juris*, *Abdicare se Magistratu est idem quod abire penitus Magistratu.* *How one is said to abdicate.*

1. For the application of the Word so explain'd: And to all that had been said to prove the late King's Abdication compleat and undeniable, it ought to be remembered, that in the very times of Popery here, a submitting to Papal Usurpations and Authority contrary to our Laws, was deem'd (a) a *Disinherison of the Crown*. What shall we say of the late King's voluntary, studied and deliberate invading his own Authority, and subjecting the whole Ecclesiastical State to a Foreign Power, to the utter extirpation of our Reform'd Constitution, so firmly settled in the special Laws of the Land to that purpose? Considering also how this in a little time must in-

(a) 25 Ed. 3. Stat. 6. *Premunire Provisors*. Ed. 1. Letter to the Pope.
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evitably ruin the Civil State, which is intimately interwoven with the Ecclesiastical in their just Liberties and true Religion; their very Consciences and Lives not being safe from the Snares and Inquisitions, and even Massacres of the most cruel, tyrannical and barbarous Religion in the World.

The Abdi-
cation
prov'd.

2. This, in conjunction with the late King's Proceedings in Civil Matters, needs no Aggravation. The Crown of *England* is glorious in a threefold Excellency, the Legislative, Executive, and Military Power. Now for one of our own Kings to do that industriously, and by many design'd deliberate Acts, which is rank *Treason against the King and Kingdom*, which at least hath a tendency to destroy the King with respect to his Crown and Dignity, what is this but to destroy himself? For a King to divest himself of the Legislative Power by the use of all Artifices of Fraud and Force, to destroy the Fundamental Privileges of Election, and consequently the very Being of a legal Parliament; of his executive Power, by refusing to govern by Law, and setting up an arbitrary tyrannical Government; lastly, of his legal standing Military Power, laying aside the Militia, and resolving to stick to an illegal Army: What is this but to relinquish the Government of *England*, to throw away all Regal Authority, to violate, break in pieces, and trample upon the Crown; to declare to all the World he will be King no longer, and to abandon the Authority which he had to govern by Law, according to the Constitution of the Kingdom, his Duty to his People as King, and the special Bond upon his Soul in his solemn Coronation-Oath?

3. But at last, to crown all, when the noise of the Prince's coming had brought him a little to himself, and he begins to feel the danger that his late daring Pranks of Tyranny had brought him into, he adviseth with his wise Council what to do: Should he trust his People in Parliament? No. Should he trust his melting Army? No. Should he trust his dreadful Son in Law? No. What then? As the evil Spirit rent and tore the Body when he was forc'd to leave it, so he did all the Mischief he could (by calling in his Writs for a Parliament, dismissing his Judges, carrying away the Broad-Seal, and putting an end to all kind of Government among us, as before) and then leaves us in absolute Anarchy, and a way of Confusion, upon a necessity apprehended (of his own creating) of dispossessing us, and flies to his trusty and well-beloved the *French King*; thus at once delivering his Person, and in consequence directly betraying his Kingdom into the Power of the only Friend he has in the World, but his Kingdoms only Enemy.

In a word, to put an end industriously to all Government at home, and as far as in him lay, to deliver himself and his Kingdoms into the Power of a Foreign Enemy, seems to be an Abdication with a Witness, at least so far as to leave the Throne vacant.

CHAP. VI.

Of Vacancy and Interregnum.

BUT it may be said, That if the late King did abdicate the Government, and thereby the Throne became void, then we admit an *Interregnum*, contrary to an antient Maxim in our Government: But the Convention did declare, that the late King did so abdicate, and the Throne was vacant; therefore they have alter'd the Constitution of our Government.

Throne va-
cant
prov'd.

Ans. 1. Hereunto I answer, first, That I for my part know no Law against the possibility either of a Vacancy in the Throne, or an *Interregnum*; I mean, in extraordinary Cases, such as ours was; or when the Royal Family may be suppos'd to be extinct, or all the remaining Branches of it are known to have imbib'd Principles directly against the Interest and Religion of the Kingdom, and destructive of what should be preserv'd. I cannot say but the contrary Opinion seems to consist with some antient Transactions of our State.

2. For a Vacancy in the Throne, we have an express Precedent in the sense of the Parliament about *Richard the Second*; and if so, that will infer so much of an *Interregnum* too.

3. I confess of later Times, the Recognition of the Parliament made to King *James the First* seems to exclude both a *Vacancy* and an *Interregnum*, that is, at least when things proceed ordinarily and regularly; the words are, *Immediately upon the*

the decease of the Queen, the Imperial Crown did by Inherent Birthright descend to you the next Heir of the Blood Royal.

And this it concerns me to observe, as agreeable to the Hereditariness of our Monarchy, as before I have declar'd it.

A Digression.

But before I proceed, I desire it may be always remembred, and that we still carry this along with us, That tho the Crown be Hereditary, yet Government is an Office and Service, or Ministry to us for good, *Rom. 13.* and that by our Law 'tis in the nature of an Office: that it may be lost three ways; either by Insufficiency, or Forfeiture, or Cession, call'd *Non-qualification*, *Abuse*, or *Non-use*. And how far these, or any of them, are applicable to the Possessor of the Crown in *England*, may be consider'd in the ensuing Discourse.

At present we shall observe, that he that takes an Office, tho it be by way of Inheritance, takes it with its Conditions and Burdens. Indeed, there are Advantages and Profits annex'd to the Office, and sometimes real Estates in Land, which are inseparable from it, and cannot be lost while the Officer continues in the Office: And thus it is with our Crown Lands, wherein the King hath *rectum dominium* in Right of the Crown; which no Man hath in his Lands besides the King. Yet if the Government be an Office, and these Crown Lands be in the King as he is King and hath that Office, and not simply in him as such a Person, he cannot lose them any way during his being King; but he seems to hold in the nature of a Benefit, from and for another; *i. e.* his Kingdom, he owes Duty for it, tho not Fealty for it: And the Statute 37 *Hen. 8. Cap. 16.* useth the word *Fee* of Lands vested in the Crown.

Vid. Blount's Law Dict. Fee.

But leaving this Digression, we must return; and there seem two Doubts depending here that I must a little insist upon, Whether the Convention did indeed declare the Throne vacant? and whether we are bound to believe that Vacancy to be so absolute as to infer an *Interregnum*?

The first Doubt touching *Vacancy*, viz.

First, *Whether the Convention did indeed declare the Throne to be vacant?*

1. If it be plain they did, they did so as our Representatives, and why should not that satisfy us? at least why should we be troubled at it, seeing their so declaring passeth not into our Allegiance, or the succeeding exercise of the Government? Besides, we are left at liberty to enjoy our private Thoughts about it; and tho they declar'd so, we are neither requir'd to declare it, or to believe it.

2. But in truth (whatever might pass at the Conferences of the Houses about it) their Words that give us their Act in publick, do not express or formally make any Declaration that the Throne was vacant.

Their words are these [*King James the Second having abdicated the Government, and the Throne being thereby vacant*] here is indeed a plain Supposition that it is so, but no Declaration. So that if the Throne was not vacant by the King's Abdication, they do nothing to make it so; all the Suppositions in the world cannot make that to be that is not.

Therefore if that King had really abdicated the Government, and yet there was no Vacancy, there was neither any *Interregnum*; but the Descent was immediate, and the Succession regular in the present King and Queen.

But if the Throne was really void by that King's abdicating, and the Convention was not mistaken in their Supposition, as we should not easily imagine, then we are concern'd to consider the second Doubt.

The second Doubt.

Whether we are bound to believe that Vacancy to be so absolute, as necessarily to infer in the meaning of the Convention an utter Interregnum?

Sol. In general my answer is, There is no necessity for such a belief, nor indeed any reason for it in my apprehension.

The Convention, as I observ'd before, did not declare a Vacancy at all, only they suppose it, as the undoubted Consequence and Effect of the Abdication; *having abdicated the Government, and the Throne being thereby void.*

Now that the King's Abdication did or did not leave the Throne vacant, depends upon the nature of the things, and is not affected by the Declaration; neither can we by our Jealousies or Imagination make things otherwise than they are of themselves, or make the Declaration import another and a stricter sense than it really doth.

For

For a fuller answer therefore, three things are distinctly to be consider'd.

1. How far a *Total Abdication* may effect a Vacancy in the Throne.
2. Whether we have reason to think that the Convention did suppose a Vacancy in any other sense.

3. Consequently, whether that sense imply an *Interregnum*.

Quest. 1. How far a *Total Abdication of the Government* may (or doth necessarily) effect a Vacancy in the Throne.

Sol. For the clear answer to this, we must take our Measures from the Nature of our Government, which hath been suppos'd to be Hereditary.

1. Now if the Government be indeed Hereditary, tho there be a Vacancy in the Throne truly wrought by the Abdication of the Government, as the Convention suppos'd, it cannot be reasonably imagin'd to be an absolute and total Vacancy, or such in all respects.

2. The reason of the Consequence seems plain from this, because the Vacancy was made by King James, and he could not make it further than he could. He could not prejudice his Heirs, or leave the Throne empty in all respects; for the Statute of King James the First declares, agreeable to all Times, *The Imperial Crown by inherent Birth-right doth immediately descend to the next Heir of the Blood Royal, upon the decease of the Predecessor.* The Royal Family have *Jus ad Rem*, but the next in Blood, if without just Exception, hath *Jus in Re*, and wants nothing but *Livery and Seisin*.

3. This carries a plain Analogy with the Interest of others; and if it be a Privilege, cannot be deny'd to our Princes. The Estate is in the Heir immediately upon the death of the Possessor; and if the Estate be forfeited, 'tis immediately in the next Tenant, tho in neither case they may have yet got Possession. And we use to say, the Heir to the Crown is King before either the Coronation or Proclamation; *i. e.* The Throne upon Demise is suddenly fill'd, and there is no Vacancy in that sense.

All Land
in Abey-
ance, or in
Fee of some
Man. Rule
in Law.

4. If the right Heir before entry be kept out of possession, the Estate is not in *Obedience*, or in *Nubibus*, but, as the Lawyers say, in *Abatement*; the Estate is really in the Heir, tho they say the Law favours the Intruder as the lawful Possessor, till the Right of the true Heir is prov'd, which I have no reason to apply.

5. However, 'tis plain enough that the Convention suppos'd the late King by Abdication left the Throne void in some respect; and what that was, must certainly respect himself and not his Heirs: he left the Throne void as to his own Person, and as to his Possession, and as to his own Right, by relinquishing the Government.

6. Yea, he left it void as to any present Administration or Administrator; and therefore it being so void *ipso facto*, the great Men of the Kingdom first desir'd the Prince of Orange to take upon him the Administration of the Government till the Convention could meet. This he did, and this Vacancy was the natural Effect or Consequence of his Abdication: but we may not strain the Word to the altering the Nature of our Government; neither may we imagine a Papist's Abdication should bar or prejudice his Protestant Children, or change our Constitution.

7. I hope I have said nothing in prejudice of any Limitations or Conditions of the Crown, either in Law, or from the necessary Nature of Government, or by Act of Parliament. If according to such Conditions the next in Blood be not qualify'd, the Throne may by Right be fill'd by the next. When the Throne was declar'd void upon the deposition of Richard the Second, his Son was instantly admitted; as were before the Sons of Ed. I. and Ed. II. upon their removal.

8. We are told (a) that before the Stat. 25 Ed. 3. *de natis ultra mare*, it was a receiv'd Maxim, that the next in Blood born beyond the Sea should not be King: And by that of 23 Eliz. c. 1. Persons opposing the execution of that Act, are disabled for ever. Yet we still conceive, that the next Heirs after them (better capacitated, and not guilty or defective as they) might claim the Crown, otherwise all other Persons are under the same Penalty, tho not at all guilty; and the Penalty

(a) Edgar was set aside, being neither in Body Scots was desir'd to be disabled. *Burl. Letter.* or Mind fit to govern. *Ingulph.* And of late the Duke of York. With full consent in Parliament the Queen of

is not restrain'd to the Person offending, or to the Crime mention'd in the latter ; or in the Incapacity in the former Instance. The Statute of the Queen plainly supposeth that some may claim, which cannot consist with an Elective Government ; and if the next in Blood are disabled by Law to claim, it follows the Right is somewhere else, and by virtue of that Right the Throne is so far fill'd, and Possession may be claim'd.

Quest. 2. Whether we have reason to think that the Convention did suppose a Vacancy in any other sense.

Sol. We may receive full satisfaction in this, from what hath been said upon the first Query.

For what reason can we have in Justice or Charity to imagine the Constitution intended any further Vacancy, than was or could be made by the late King's Abdication ? What reason is left us to think that they intended such a Vacancy as was inconsistent with the nature of our antient Hereditary Monarchy, or the Interest of the Persons that are now advanc'd to the Throne in their own Right ? of which we have given an account before. Or why should we impose a groundless and an unreasonable sense upon the Proceedings of our Superiors, as may forestal or prejudice our quiet and due submission to the Government ?

2. For our further satisfaction we ought to consider, first the Persons whom they admitted to the Crown, namely such as, upon Avoidance, upon their inherent Birth-right might have claim'd the Crown. Secondly, The words of the Declaration by which they were admitted ; [*The Throne being thereby vacant, we do resolve that William and Mary be, and be declar'd King and Queen.*] They do not say they make them so, but resolve that they are so, and then declare them to be what indeed they were.

3. And now I must have leave to admire the Wisdom, Foresight and Caution of that great Assembly : They do not lay hold of a Forfeiture of King James ; they do not pretend to depose him, they do not insist upon his Resignation ; but they suppose and alledg strong grounds of that Supposition, that he had abdicated the Government so far, as that with respect to him, to all Intents and Purposes, the Throne was void : and therefore to maintain the *Hereditariness* of this Monarchy, they allow the Right of the next Heirs, viz. William and Mary ; and accordingly upon that their Title they declare them *King and Queen*.

Quest. 3. Whether the sense of Vacancy thus explain'd, implies an Interregnum ? This can be a Question no longer, if we consider the Premises ; for such a Vacancy we have upon every Demise of the Crown, yet no *Interregnum*.

CHAP. VII.

Of the Convention, and how it became a Parliament.

The third Maxim consider'd.

Object. **W**E are arriv'd to the Consideration of the Third great Exception, viz. That it is a Maxim, *That nothing binds the People of England but an Act of Parliament* : But the present Government was made by a Convention, and not by a legal Parliament, therefore we are not bound to own it.

Sol. 1. To this, first, it may be reply'd, That tho this Maxim be generally allow'd, yet not without some Exceptions : For is not Custom and the Common Law the Rule of Right and Justice betwixt Man and Man, yea and betwixt the Prince and the People ? Were there no Statute or Act of Parliament about Government and Subjection ; yea, were there no Coronation-Oath, or Oath of Allegiance to be taken by the King or the Subject ; yet, from the nature of our Government, and by Common Law, the King ought to govern according to the Laws and Customs of the Kingdom ; and we ought to pay him our natural Allegiance. Yea, it is not question'd by those that most scruple about the present Settlement, but now there are positive Laws requiring those Oaths ; yet before they are taken, the respective Duties both of King and People are to be observ'd by force of the radical nature of our Monarchy, and the fundamental Constitution of the Government in our Common Law.

2. For a further Answer we must remind what hath been said of our Hereditary Monarchy, which if understood in no other sense than these very Persons are eager to maintain, methinks supersedes this Objection.

For

For if the Government in their own sense be Hereditary, then in consequence of it, when the Throne is vacant of the Predecessor, it is in the same instant fill'd by the next Heir as to Right and Title, in analogy with all other cases of Inheritance, and even from the nature of Inheritance. We need not here speak over again what we have said about the late King's Abdication, and leaving the Throne void; we may be allow'd here to suppose it: and then 'tis evident that upon this ground, upon that Avoidance, without any Intervention or Act of the People, either in a Convention or Parliament, the Crown immediately descended to the next Heir of the Royal Family by Right of Blood or Birth-right.

3. So far for their Right. As to their entry and possession of the Government, tho in all such extraordinary Revolutions it hath been safest to be admitted with the Consent of the People; yet 'tis evident from the same Concessions, that it is their Inheritance, that the next Heir may claim and take possession of himself, without the Consent or Act of the People: that is, he hath Right to do so; and if he be hindred and kept by force from his lawful Entry, without just Cause, or his own Consent, he is apparently injur'd. And this seems to follow irresistibly from the nature of an Inheritance.

Instances
in several
Kings of
England.

4. Accordingly the Duke of *Lancaster* came into the Parliament, and claim'd and challeng'd the Crown as descended unto him by the right Line of the Blood of *Henry the Third*; and his Claim and Challenge without any dispute was immediately admitted.

Walsingham Hist.

Upon the Resignation of *Edw. 2.* his Son *Edw. 3.* as the First-born and Heir of the Kingdom, declares, that upon his Father's Concession, by the Counsel and Advisement (no other Act) of the great Men, he assum'd and took upon him the Government.

5. But I need instance in no more, when we have consider'd what pass'd in Parliament 1 *Edw. 4.* They declare the King was in Right, from the death of the King his Father, very just King; and that they take and repute the said *Edw. 4.* according to his said Right and Title, declaring his Title was just and lawful, as grounded upon the Laws of God and Nature, and also upon the antient Laws and laudable Customs of the said Realm. Agreeable hereunto was the Recognition of King *James* before-mention'd.

The Convention
acted for
the best.

6. Now if we apply this to our own Case, may I demand, What was there left for the Convention to do? King *James* had relinquish'd the Government, and left the Throne vacant, whereby there was an immediate Descent of the Crown by inherent Birthright to his Daughter, if willing to accept it: I say, what had we to do more, than to recognize and declare her to be Queen of *England*? Indeed, they did join in their said Declaration the Prince her Husband with her; but they seem not to pretend to make either Him or Her King or Queen: their words are these, *The Lords Spiritual and Temporal, and the Commons assembled at Westminster, do resolve that William and Mary, Prince and Princess of Orange, be, and be declar'd King and Queen of England, &c.*

Object. But why do they not then declare the Princess as immediate Heir to be Queen only, or at least before the Prince?

Sol. This I hope hath been fairly accounted for before. *Consensus tollit Errorem*; especially Consent grounded upon invincible Reasons of State in that Juncture, or rather Confusion of Affairs. And if we look back to former Times, we are not without Instances in this particular, not much unlike it.

2. *Edward the Second* deny'd himself of his Right, and actually relinquish'd the Government ('tis not material here upon what Motives) and his Son, with the Father's liking, and the Advice of the great Men, was King of *England* during his Father's Life: tho before he had sworn, *invito Patre*, he would never accept of the Crown; yet when he doth accept it, he declares he takes it not as the Gift of the People, nor any other way, but as *Primogenitus Regis, & Hares.*

3. Somewhat like it we read concerning *Richard Duke of York*; he was permitted by the true Heir to the Crown (tho his own Title to it was upon examination found defective) to possess the Throne, for the Honour of the King, and to maintain Peace during his Life: and the true Heir did *cedere de jure suo*, with assurance to enjoy the Crown after the decease of the King *de facto.*

4. It was indeed enacted 15 *Edw. 2.* that the things which shall be establish'd for the Estate of the King, and of the Realm and People, may be treated, moved, and establish'd by the King, and by the Assent of the Prelates, Earls, Barons, and Commonalty of the Kingdom. And there is no doubt but this is the proper course in ordinary Cases.

5. But

5. But that there is a necessity for a Convention, that is no Parliament, in some extraordinary cases, to meddle in these high Matters, none I think can question: Namely, if we can suppose the Royal Family extinct, at least so far as there is no Heir appears to claim and take the Government upon the Demise of the King. Is there not a plain necessity now to preserve all from Confusion, for the great Men, &c. to meet, and to consider where to place the Government, according to Right or Merit?

6. Again, we may suppose two or more Rivals for the Crown, upon the King's Death, when there can be no Parliament (that, if in being before, dying with the King) should not the great Men meet, and prevent the ruin of the Kingdom by Civil Wars, by acknowledging and assisting the Right Heir, as they are bound by their natural Allegiance?

As they did in Rich. 3. that famous Case.

Yea, I may add, if a Pretender, excluded by the Limitations of the Law, should by Violence invade the Government; what Remedy if the People may not meet, especially being invited thereunto by the next Heir qualified by Law, to keep out the Pretender, and admit the lawful Heir to take the Government?

7. That there may be Limitations put to the Descent of the Crown, methinks lies not only in the Nature of Government, but hath been the declar'd sense of the Kingdom (*i. e.* of King and Parliament) upon all Occasions, and never deny'd: And if those Limitations are necessary for the preservation of the Whole, and our very Constitution, as they may be or are clearly express'd in an Act of Parliament; if any one would break thro and invade the Government, he must be prevented by a Convention, or the Foundation of the Government is subverted.

Descent capable of limitation.

8. Lastly, The Throne being left empty of an Administrator lately in our own Case, and we put into a State of Anarchy and great Confusion upon the late King's departure; Did not every Man that had any sense of our Danger (and that is, all that were not concern'd in the late Methods of our Ruin) Did not they see then a plain necessity to meet together, and apply to the Author of our Deliverance, desiring that he would take upon him the Administration of the Government till the Convention should meet, and give out his Summons for a Convention? And was not that Convention regularly, peaceably and freely chosen and assembled? And what did they do, but consider where the Right of the Crown now lay, and with the Consent of all Parties, as before is noted, declare *William* and *Mary* our King and Queen?

9. True, as yet they were no Parliament; but as soon as there was a Possessor of the Throne, the Lords and Commons so freely chosen, by the subsequent Consent of the King, of themselves proceed into a Parliament; and being so, recognize the King and Queen, and cause Proclamations thereof to be made throughout the Kingdom. Which being done, we have a King and Queen *de facto*, and no room left to dispute their Title according to Reason.

10. Give me leave to resume the Matter fair and plain. All saw a necessity that the great Men should meet (and some perhaps that now scruple) and desire the Prince of *Orange* to take the Administration of the Government, and summon a Convention; and in that Exigence what could they do more seasonable and wisely? and how could the Prince proceed more regularly and nearer to our Constitution, having the Exercise of the Government, than by summoning a Convention? Or how could the People transact the Election, to represent them more freely and quietly than they did? And what had the Convention of Lords and Commons so elected to do, but to consider where the next Title to the Crown lay, and to declare and recognize the present King and Queen, with consent of all Parties concern'd, as before was observ'd? by which Act of the People of *England* they took, and now have as evident a possession of the Throne, as ever any King of *England* had.

11. I say now especially, because since the Declaration of the Convention, the Body of the Kingdom in Parliament have solemnly again recogniz'd the present King and Queen; and they have been since acknowledg'd by the People at large, by universal Proclamations throughout the Kingdom.

Object. But the Assembly at *Westminster* may be thought but a Convention still, and no Parliament, because not at first summon'd by the King's Writs.

Answ. However, they truly represent the whole Body of the People; and the Representatives of the Commons, and University of the People, together with the Lords, all concur'd to the Proclamation of the King and Queen, and that's enough certainly to render the Possession of the Throne by them undoubted; be-

sides the Solemnities of it at their Coronation, by the usual Methods, and all Formalities of Law.

But let us consider this Matter a little nearer.

How the
Convention
became a
Parlia-
ment.

2. I do not say a Parliament can make it self; but methinks 'tis evident enough, that the Persons elected by the People on purpose to be their Representatives, in conjunction with the Lords, whose Right it is to sit in Parliament, with the Consent of the King sufficiently express'd, should have both the Matter and Form of a Parliament. 'Tis true, we cannot conceive a proper Parliament in *England*, without a *King in Being or Possession*; but the Writs before can reasonably be suppos'd to have no further Influence into the Being of a Parliament, than only for the orderly proceeding of the Election, and signifying the King's Pleasure to have a Parliament.

To be short; if we find the Name and Power of a Parliament given by the Law to Conventions, not chosen by the People; if we find the Definition of a Parliament given by a Statute, to agree exactly to the present Parliament; and lastly, if we have a Precedent in the Case, why should we doubt whether the present be a Legal Parliament?

Conventi-
ons often-
times call'd
Parlia-
ments.

First, That the Name and Power of Parliament hath been formerly given by Law to Conventions of the great Men, and the Community of the People, without any Election of the People at all, and consequently not chosen upon Writs from the King; this the learned Dr. Brady labours much to prove in favour of the Crown, before (as he saith) Parliaments were settled as now they are. He saith, *Colloquium & Parliamentum*, Conference and Parliament, were expressive one of another: and in those great Conventions, sometimes only the great Men of the Kingdom, as at *Runnemede*, are call'd a Parliament; sometimes also with them the *Communitas Populi*: but these, he saith, did not include the common sort, much less imply the issuing out of Writs, and thereupon the Peoples electing their Representatives. P. 72. Answ. to Mr. Petit.

Whence I argue, If a Convention heretofore (without the Election of the People upon Writs from the King) had the Name of a Parliament, and concur'd with the King to make Laws binding upon the People; certainly now a Convention freely chosen by Summons from a Person that had the Administration of the Government in his hand, and was in the place of the King (tho the late King had call'd in his Writs, and left the Kingdom, and that Exigence of Affairs could not possibly admit any other Remedy) I say, such a Convention, when allow'd by the King, doth much rather deserve the Name, and challenge the Authority of a Parliament.

Nature of
a Parlia-
ment.

The Argument receives much strength, if we consider that now the Election of our Representatives, so essential to our Parliaments, is the great Fundamental Privilege of the People; and consequently the King's Writs to that purpose, that we may have frequent Parliaments, is the Peoples Privilege also: besides, the present King cannot be suppos'd to suffer any thing in his Prerogative, who (tho in another Capacity) did in effect send out such Writs; and since he took the Crown, hath allow'd the Election upon his own Summons for a Convention, to serve in order to their being a Parliament. What can be thought wanting to the making them a Parliament? The People have their Privilege, and the King his Prerogative: and while we have the Substance, 'tis vain to complain of the want of a mere Formality, impossible to be had, to the unfetterment of a whole Kingdom.

Secondly, The Definition of a Parliament agrees well enough with our present Parliament, as we have it in 1 K. James the First.

A Parliament is, where all the whole Body of the Realm, and every particular Member thereof, either in Person, or by Representation (upon their own free Elections) are, by the Laws of this Realm, deemed to be personally present. Wherein we have two Propositions.

1st. That every particular Subject, either in Person (in the House of Peers) or by Representation in the House of Commons, is, by the Laws of this Realm, deem'd personally present in Parliament.

The Essence
of a Par-
liament.

2dly. That where the Whole of the Realm are thus, either in Person as Peers, or by their Representatives, upon their own free Elections, present, there is a Parliament.

1. So that the Essence of a Parliament seems to consist in two things, with respect to the two Houses: The presence of the Peers in their own Right, and of the Representatives of the People by virtue of their Election, and to be entire, without the Consideration of any previous Writs from the King.

2. Indeed

2. Indeed we cannot well conceive that a Parliament properly so, can be so without a King in being, not for want of Writs to summon, but for want of an Occasion and Reason of their being, if the King be the Person with whom they are to parly, & *caput, principium, & finis Parliamenti*. But seeing the Peers of the Realm, and the Representatives of the Commons, upon their own free Elections are assembled, and the King in being allows, approves, and ratifies their Assembly to be a Parliament by his subsequent Assent as King to that manner of Summons, which he, before he was actually King, invited them to; and advises with them, and makes use of them as his Parliament: It is plain to me that they have the entire Substance of a lawful Parliament, and that the King's Writs in such a case are but a separable Accident; and that we should look upon our selves, and the whole Body of the People as present there, and acting or consenting to all the Laws made by the King and them.

3. And lastly, We are not without a plain and direct Precedent in the case upon King Charles the Second's happy Restauration (as every one observes) which is, *in terminis*, made the Pattern by this King and Parliament in the late Act, declaring themselves to be a Parliament, tho it wanted the previous Writs of Summons which *Conventi-
on Parlia-
ment in the
Resta-
tion.* could not be had.

And tho 23 of the Statutes made by that Parliament were afterwards confirm'd, 13 Car. 2. c. 7. yet the rest of the Acts made by them have been taken to be of as much Force by the Judges, tho not so confirm'd: And this of the 12 Car. 2. 1. is one of them; as all other Laws made by our Kings, whose Titles have been afterwards question'd (with the Peoples Concurrence) have been ever held valid.

Thus we have the publick Judgment of two Kings, and of the Body of the whole Kingdom in two Parliaments, that such Writs of Summons before-hand are not necessary in all Cases, and in particular in our Case, to the Constitution of a true and legal Parliament: And who have most reason to understand, and to judg and determine such publick and high Points, concerning the Nature of Parliaments, the King and Kingdom assembled together, or Men of a single and private Capacity? How far our Consent and Sense is concern'd in the determination of those we have chosen, and in some sort trusted with our politick Interest, and in whom the Law lately mention'd, saith, We are *deemed to be present*, I urge not, but it may be worthy to be consider'd.

The Words of the Parliament, being about to declare the Right of Richard the Third, are these, and I think them very pertinent: *The Parliament is of such Authority, and the People of this Land of such a Nature and Disposition, as Experience teacheth, that Manifestation or Declaration of any Truth, made by the three Estates of this Realm assembled in Parliament, and by Authority of the same, maketh before all other things, most faithful and certain quieting of mens Minds, and removeth the Occasion of Doubts and seditious Language.* Which God grant.

C H A P. VIII.

Arguing for the Possession of the Crown.

I Have now finish'd the greatest part of my Undertaking; and how I have vindicated the late Revolution, and reconcil'd our present State to our antient Constitution, as an Hereditary Monarchy, and admitting no *Interregnum*, my Reader will be my Judg. As also of what I have said touching Abdication and Vacancy in the Throne; of the Convention, and their just and regular Proceedings in their Invitation of King William and Queen Mary to take upon them the Government of these Kingdoms; and lastly, of the Legality of the present Parliament; and thereby obviated or answer'd the Objections made against the present Government. From any, or all of these, as I intended, I submit to his serious Consideration and Candid Censure.

2. But if all that I have hitherto said fail of my End, in giving full Satisfaction to such as scruple the taking the new Oaths of Allegiance, to all the Arguments that have been so well enlarg'd upon by others, I shall only resume that that hath been often insist'd on, taken from the Possession of the present King and Queen, with the easy and just Consequence of it.

If the Body of the Kingdom, as represented by the Lords and Commons duly chosen, or scatter'd over the Kingdom, by their open, uninterrupted, and general Recognitions and Proclamations, and their Coronations, with all the Methods and Formalities of Law, can give, or can own and approve the Possession of the Throne, and declare and manifest *William* and *Mary* King and Queen (as no body can doubt) they are certainly, and must be acknowledg'd to be our King and Queen *de facto*.

Now hence it follows:

Obedience
to K. W.
and Q. M.
by Law.

1. Then we owe them Obedience due by Law, for then we are their Subjects: And we cannot conceive of Sovereignty without Authority, nor of Subjection without Obedience. This the Statute of *Hen. 7.* plainly supposeth due to the King in being; and consequently that such an one is not a King in Name only, but in Dignity and Power: And the Subject may obey him, fight for him, and consequently take the Military Oath, an Oath to be faithful in that highest Act of his Service; and doth assail him from any Crime in so doing, in Reason, Law, and Conscience.

2. Hereupon the learned Lord *Coke*, and Judg *Hales* affirm, without hesitancy, that a King *de facto*, and not *de jure*, is within the great and antient Statute of *Treason, 25 Edw. 3.*

Treason lies
against a
King *de*
facto.

3. Now if we enquire why *Treason* may, according to Law, be committed against a King *de facto*: the Reason is obvious, namely, because the Law looks upon him as really our King. As *Treason*, they say, cannot be committed against a King by Right only, who hath not Possession; which must be upon the like Reason, because the Law doth not regard one out of Possession, and cannot protect us, or administer Justice to us as King of *England*.

4. Hence it seems to follow, first, if the Subject may be guilty of *Treason* against the King in being, it implies he owes the Duty that is contrary to *Treason* to the same King; and what is that but Fealty or Fidelity? that is, a Principle against *Treason*, a faithful and loyal Mind, keeping *Treason* out of its Seat, which we know is not so much in our Actions as in the Mind and Imagination. Secondly, If *Treason* cannot be committed against the King that is out of Possession, as he is not King according to Law; so we cannot be thought to owe him our Allegiance, that is, *Obedience according to Law*, for he is not King so as to rule or command us; and then there is wanting the very Reason of Duty, or of Fidelity to that Duty.

5. It may not be unworthy our observation, That if any one yet can be so weak or blind as to imagine, that since the late King's Abdication the Crown is in abatement, and the Right lies somewhere else; even in that case they say, the Common Law favours the Abator, and looks upon his Title to be good, until the Right of the Heir be prov'd, and the Matter of the Title be decided by Law, and consequently all Duties in the mean time are to be paid by the Tenants to the Abator, as if he had Right as well as Possession. I need not apply it.

6. However there is nothing in the Law of the Land, or the Word of God, that necessitates the Subject to trouble his Conscience with Scruples about the Titles of Princes, or beyond the actual Possession and Administration of the Government.

1. For the Word of God; this supposeth Christians to be under the present Powers, and strictly enjoins them peaceable and unscrupled Submission and Obedience to the Powers that are: but this Argument hath been sufficiently enforc'd by others, even to Demonstration.

Obedience
to the pre-
sent Powers
justify'd.

2. For the Law of the Land; this justifies our Obedience to the present Power, yea requires it, and punisheth the contrary, and will not endure any Scruples about the Right, when the Possession of the Crown is once settled; and terminates all Doubts of that kind in an Act of Parliament, which is the publick Judgment and Sense of the Nation.

Dr. Brad.
p. 390.

'Twas said by the Parliament of *Richard* the Third, after they had clear'd his Title, as grounded upon the antient Laws and laudable Customs of the Realm, according to the Judgment of all such Persons as were learn'd in those Laws and Customs; they proceed and say, "Yet nevertheless, forasmuch as 'tis consider'd that the most part of the People is not sufficiently learn'd in the aforesaid Laws and Customs, whereby Truth and Right in this behalf of likelihood may be had, and not clearly known to all People, and thereupon put in doubt and question; and over this, how that the Court of Parliament is of such Authority, that a Declaration made
" by

“ by the three Estates, and by the Authority of the same, maketh before all other things most faithful and certain quieting of mens Minds, and removeth the occasion of Doubts and seditious Language : therefore they declare that he was the undoubted King.

Whence 'tis evident, that the Reason of this Law supposeth that the Subjects in general are not capable of understanding the Laws and Customs upon which the Titles of our Kings depend : and that the best Satisfaction that the generality of the People can possibly have in those high Matters, is the Sense, and Judgment, and Determination of the Kingdom, by Act and Authority of Parliament, wherein they should acquiesce for the preventing Sedition, so much as in Language.

Reason of the Law of the Parl. R. 3.

But to be short here, the Law allows a King *de facto* the Name, and Dignity, and Authority, and Defence of a King ; and doth it not require our Duty according to Law ? Was it ever known, the King being acknowledg'd to have the actual Government, that the Subject was excus'd from Allegiance, or an Oath of Fidelity as occasion requir'd it ? Yea, if Obedience according to Law, be acknowledg'd due to the present Government, as 'tis now it seems generally granted, is not the Oath of Allegiance at this time requir'd by Law, as well as by the Relation of Subjects, and so made a plain part of our Obedience according to Law ?

A King de facto invested with full Power.

Yet if the King in Possession be really our King, do not our own Laws return upon us, requiring Loyalty and Fealty, forbidding Sedition, and *Scandalum Magnatum*, and all Endeavours to alter the Government ? that is, at least by our peaceable and dutiful Carriage to acquiesce in the Work of Divine Providence in our late Revolution, and the acknowledgment of our Subjection due to *William and Mary*, who, as we have heard by the Laws of the Land heretofore made, are our undoubted King and Queen, because in possession of the Government ; their Right also is unquestionable by private Subjects, being a Point determin'd according to the antient Laws and laudable Customs of this Realm ; and their Right as well as Possession openly declar'd by the highest Authority of the Kingdom in Acts of the present Parliament.

Object. But some are apt to say, This is to prove that the Sun shines ; who denies that the present King and Queen are such *de facto*, or that we ought to obey them ?

Sol. 1. This is so far well. But do we obey them, without reserve for the late King ? Do we acknowledg that the Laws of the Land oblige us to give them our Obedience ? Or do we mean only that they have the Name of Sovereigns, and a Power in their hands to defend themselves against, and to punish Disturbers of their Possession ? If it be so, we do not take right Measures of their Authority, or of our own Duty according to Law.

How K.W. and Q. M. are really our Sovereigns without reserve.

2. For they are really King and Queen by being in possession, and invested by the Laws with Regal Authority as well as Power ; otherwise they could not be within the purview of the Statute of Treason.

3. Consequently all their Actions that are politick, and for the Matter agreeable to Law, are as valid, and of as good Authority as the Acts of the most rightful Kings.

They have Authority, and do effectually execute and make Laws, while they are in possession : as they do protect us, so they administer Justice, dispose of Offices, coin Money, make Peace and War, punish all kind of Offences, as well against the Subjects as the Government.

4. And such Acts of a King *de facto* only, without Right, as concern and have influence upon the Kingdom, have ever been allow'd and reputed good and valid, tho the Title to the Crown hath been question'd and deny'd in after-Ages, as we noted before.

5. That very Parliament that condemn'd the Usurpations of *Hen. 4, 5, 6.* and all Acts that had entail'd the Crown contrary to the course of Inheritance, yet add these remarkable Words ; *Howbeit that all other Acts and Ordinances made in the said Parliament since, be good and sufficient against all other Persons.* Vid. Dr. Brady, p. 386.

I would infer hence, that Obedience is due to the present King, &c. in his Authority by Law acknowledg'd, as well as Power ; and therefore not only for *Wrath*, but for *Conscience sake* ; Conscience, I say, not of their Title, but of their Authority, and our own plain Duty (at least for Conscience sake, with respect to the Publick Good) to take the Oath of Allegiance, which is part of our Obedience, it being requir'd by Law, and therefore our Duty.

Object.

Object. Your arguing seems to persuade us only to Obedience, which we do not much scruple in the sense you explicate it. The swearing to bear true Allegiance is that which troubles us, not knowing well the intended sense or meaning of it.

Law the Measure of Obedience.

Sol. 1. The Government hath given us reasonable Satisfaction in this Particular, tho not so clear as may be wish'd; the very Title of the Oath, even in this new Law, is the Oath of Allegiance or Obedience. Now if Allegiance in the Sense of the Law, as explain'd by the Law-makers, be nothing but Obedience, and Obedience in England is to be measur'd by the Laws; what can Allegiance import more than Obedience according to Law? which you say you are willing to yield: and why now should you refuse to add this Sign and Security of such your Obedience by taking your Oath to do so?

2. Moreover, you find the Government insists not upon the word *Allegiance*, nor intends any strange or obscure Obligation upon us by it: for in the Declaration they require of Quakers who refuse to swear, they express [Faith and Allegiance] by those plainer words; *I will be true and faithful to King William and Queen Mary.*

3. And as one lately hath very well observ'd, the Parliament have avoided all occasion of offence in wording this Oath that might consist with the Security of the Government; for by omitting the assertory part of the former, 'tis evident they do not require us by this Oath to assert the Title, but to secure the Possession and Peace of the Crown in King William and Queen Mary, by our Obedience according to Law.

Great Temper in the Proceedings of the late Revolution.

Indeed we may perceive in the whole Proceeding of our late wonderful Revolution, so much Sweetness, Tenderness, and Condescension to the Prejudices that the former state of things might leave in us (both with respect to our late King, and our own Obligations) as if the Government had industriously studied to avoid all occasions of Offence, as much as the nature of the Change suffer'd to be possible.

I have, I think, noted before, that the Convention did not depose the late King; did not declare the Crown forfeited; did not require him to make a Resignation of it: And tho they justly charge him with many intolerable Grievances, yet they did not call the King to an account for them: Nay, they did not so much as declare that the King is accountable; so that the Minds of such as boast of excessive Loyalty, have ease as to all these things that bear so hard a Contradiction to their Principles; and as for our selves, we have noted some Kindness and Condescension with respect to the Oath requir'd; thereby it is neither requir'd that we should abjure the Title of the late King, nor assert the Title of the present. God forbid therefore that there should be left any prejudice in us from the hard proceeding of the Government in either kind: if it should, it is plainly as false in its ground, as 'tis like to be evil in its Consequence, especially if we stiffen our Disloyalty with the continuance of a scandalous Impeachment of our Rulers and Legislators, for Severity intended against the Church, and a design'd Alteration or Change of the antient Constitution of this Hereditary Monarchy; the one I hope is as true as the other.

Object. The Statute of Hen. 7. so much depended on, was made by a King that had no Title to the Crown himself.

Ans. What then? Doth it follow that the Statute is not of force? Upon that ground we must blot out a great part of our Statute-Book, which is full of Laws made by such Kings; and the best of our Laws have no force, if the Observation hath any truth, that *the worst Kings made the best Laws.*

Object. But 'tis a Law mischievous to the Right of our Kings.

Statute of Hen. 7. about the King de facto.

Ans. It is much this Mischief hath not been discover'd by our former Kings or Parliaments, that so mischievous a Law should continue through so long a tract of Time unrepeal'd. 'Tis confess'd it may be inconvenient, and prejudice the Interest of a King *de jure*; but we ought in reason to set this against it, that it is a Law at all times convenient, and serving the Ease, Quiet and Safety of the Kingdom, for whose sake Kings themselves are: 'Tis hereupon that the Lord Bacon tells us, *That the Spirit of this Law was wonderfully pious and noble; upon this ground, as one saith well, because they who had no hand in the Sin, should bear no share in the Punishment.*

And the Lord Bacon adds, *That this wanted not prudence and deep foresight, for it did the better take away occasion for the People to busy themselves to pry into the King's Titles; for that however it fell, their Safety was already provided for.* And as the late

Author,

Author, that cites my Lord Bacon for these words, adds very well, *The meanest Capacity will not be wanting for a Rule of that Subjection which every Soul owes to the higher Powers*: But if the Subject ought first to satisfy himself touching the Right of his Prince (especially in such a time of Contest as there was many Years betwixt York and Lancaster) certainly every Soul could hardly be so well satisfied as to be subject for Conscience sake.

CHAP. IX.

Whether a King can make Laws, limiting the Crown.

Obj. **T**H O it be acknowledg'd that a King *de facto* hath power to make other Laws, viz. Laws for Peace and Justice, yet it is a doubt whether a King that hath no Right to the Crown, can make Laws for limiting the Succession of the Crown, as is now to be done.

Answ. It is confess'd, that when it was pleaded against the Title and Claim of the Duke of York, that there were divers *Entails made to the Heirs Male of Hen. IV.* it was answer'd, *There had been none made by any Parliament heretofore as it is surmis'd, but only in the seventh Year of King Henry the Fourth.*—But that *Act* taketh no place against him that is right Inheritor, &c. *Howbeit all other Acts made in the said Parliament since, have been and are sufficient against all other Persons.* Upon this Law the foresaid Distinction seems grounded; but I think very weakly, for these Reasons:

1. Because this very Law mentions *Henry the Fourth*, with the Addition and Title of King without any diminution, as appears in the words cited.

2. The ground upon which that Entail was declar'd Null, was not a want of Power in King and Parliament to make a Law about the Succession; but as they declare in the Duke's first Answer, That no Oath, being the Law of Man, ought to be perform'd, when *the same is against the Truth, and the Law of God*: implying, as afterward they speak out, tho it was a Law of Man, it faileth not for want of Authority, being made by a King *de facto* with his Parliament; but the reason why it could not oblige was taken from the Matter of it, it diverted the Descent and Succession of the Crown according to the Right of Inheritance.

3. The Argument that a King *de facto* hath no Power to make Laws to limit the Crown, because he is suppos'd to have no Right to the Crown himself: I say, this seems not cogent. 'Tis true, 'tis suppos'd he had no Right at first, and his Usurpation cannot be thought to create any just Title to the Crown; yet when he hath it, hath not he Right, or rather Authority in Law, by his Possession to use it? that is, to make Laws. If not, then all the Laws he makes, even those for Peace and Justice, are void for want of Authority, which this very Law against the Entail of *Henry IV.* denies.

I grant, all positive Laws made by a rightful King, or by an Usurper, are equally voidable, *i. e.* repealable. But if we speak of such Laws as are void of themselves, it seems to me they must be so one of these two ways: either for want of due Authority to make Laws; or, with respect to something in the Matter of such Laws as is destructive to them.

For the first way 'tis granted me, that a King *de facto* only hath Authority enough to make Laws generally speaking: If his Laws therefore be not of force to limit the Succession, 'tis for another reason mention'd before, taken from that special Matter of the Right of Inheritance, which, it is thought, cannot be infring'd by any Law of Man.

Hence 'tis still a doubt with me, whether a King *de facto* hath not an equal Power with the most rightful King to make any Law, even touching the Crown, as any thing else.

Suppose a King *de facto*, after some Contests about the Succession, settle the Crown as it ought to go, is not such a Law a good Law? Wherein can it fail? neither in Matter nor Authority. Again, the most rightful King, in and by his Law, limits the Crown as it ought not to be; Is that Law a good Law? No Power can make a Law that is *malam in se* to be *bonam*.

I confess, I see no difference in the Legislative Power of a King regnant, whether with or without Right; especially seeing the Parliament, which is the Body

No difference in the Legislative Power.

Body of the Kingdom, chuse the Matter, and give Authority to the Laws as well as the King.

But this Nicety need not trouble us under their present Majesties, whose Title to the Crown, I hope, is unquestionable as well as their Possession of it. Besides, there is no room for this Objection among all our Scruples about the Oath of Allegiance; for in our private Capacity we are not to answer for Errors in Government. If the Succession can be suppos'd to be limited in any Point amiss, how can we help it? What's that to our Duty? how are we concern'd? The Law doth not require us to assert or swear to the Act for settling the Crown for the future, it requires only our Obedience to our present gracious King and Queen; and we do our Duty if we look no further.

C H A P. X.

The Honour of the Church of England, no just Objection against our taking the new Oath.

Object. I Have heard it offer'd by some, that tho it be lawful to submit to the present Government, and to take the new Oath of Allegiance, yet by our doing it the Church of *England* suffers in her Honour, and her distinguishing Character of Loyalty.

Sol. I have some reason to hope, that with several Persons not perfectly reconcil'd or satisfy'd, this is the last Objection that remains unanswer'd. I shall therefore briefly, with all the strength I have at present, set my self to remove it, and so conclude.

What is meant by the Loyalty of the Ch. of Eng.

1. I confess Loyalty hath been reckon'd the Character of the Church of *England*, and in a great measure very deservedly; but if we mean such Loyalty as doth distinguish her from all other Churches of Christians in the World, it may be an Argument of Singularity, and a Reflection upon all other Protestant Churches (as well as Popish) Principles and Practices, as some lately have made manifest Demonstration. And how honourable or laudable that is I determine not, but it may be consider'd.

2. I perceive the movers of this Objection do not say, that 'tis unlawful to take the new Oath: And indeed that is granted in the nature of the Objection; for if the Oath be refus'd only because 'tis dishonourable to take it, 'tis suppos'd to be in it self lawful, tho not expedient: And indeed the Argument would have force enough, if there were not some heavier thing than Honour to be put into the other Scale.

3. And thus the present Argument is not directly Matter of Conscience, but of Prudence: For the Matter *in genere*, and in its first Consideration, is granted to be indifferent; and 'tis to be determin'd to be good or evil by the addition of something to it, in our special and secondary Consideration. Now here you lay Honour and Reputation in the Scale, and this hath its Weight; but if we put Necessity against Honour and Reputation, the Weight of these is inconsiderable; and what is the Consequence? Why, that which we thought was not to be done because it was dishonourable, we see must be done because 'tis necessary: This is the Law of Prudence; and Expediency changeth sides, that which was expedient not to be done for the sake of Reputation, is now expedient it should be done, when the necessity of it appears with its greater Weight.

4. You already perceive how easily this applies it self to the Case in hand, admitting something of Dishonour may in general, and *prima facie*, attend the Action; for the very granting it to be an indifferent thing in it self, whether I take this Oath or not, plainly determines the Case, and puts an end to the Controversy.

5. For I boldly and peremptorily pronounce, that if it be indifferent, it hath such Additions and Circumstances, as cannot but make it an indispensable Duty, *Rebus sic stantibus*; from the Argument or Ground of Necessity, *viz.* both *Precepti & Medii*.

6. First, There is a Necessity of the Precept or Law that makes it to be our Duty to take this Oath, which is but the Security of our Allegiance; 'tis requir'd by the

the Nature of our Constitution and immemorial Custom, which is our Common Law ; 'tis requir'd from the Paction betwixt Prince and People, to secure each other by their respective Oaths ; 'tis requir'd by virtue of the Statute of *Henry the 7th*, whereby we are to acknowledg the King regnant, to whom alone we owe Allegiance and must secure it. And lastly, 'Tis expressly requir'd in the Laws of our own making, by our Representatives in the present Parliament ; in and by which Parliament the King and Queen have equally sworn and plighted their Troth to us. Whence Protection and Allegiance are both the natural and legal Results of the Relation between King and Subjects, which very Titles do after a fort import so much.

7. Nor is the taking this Oath necessary only by the Law of Nature, and by the Common Law of the Land, and Acts of Parliament, but by the Law of God. If we should grant it to be perfectly indifferent without it, yet we must grant that it be determin'd by the Word of God, it thereby becomes necessary. Now I should think, that to obey the Powers in being, is as clearly commanded by the Law of God in the Holy Scriptures, as by any other Law whatsoever : And that we cannot, or do not obey the Powers in being, if we refuse to take the Oath ; which, we say, is in it self indifferent, when expressly requir'd by the Laws of the Land.

8. I think it is the Sense, not only of the Church of *England*, but of all good Christians, that the Word of God makes it our Duty to obey the Government in all indifferent things made necessary by our own Laws : And that we are bound to such Obedience, not only for Wrath, but Conscience sake : Conscience towards God, his Ordinance and Command. Let us not misjudg it for our Honour or Reputation, to change our boasted Loyalty into Disobedience, which is scarce to be avoided without obeying the Laws of God and Man, and taking the Oath.

Secondly, But were there no other Law requiring us to take this Oath, Doth not the Necessity of it, as it is a Means, make it our Duty ? What if Reputation weigh something with us, doth not the Danger of the Publick, continu'd by our Stiffness, weigh more ? Do we talk of Honour, when the Commonwealth lies at stake ? Is it comely for a Soldier to be playing with a Feather in his Cap, when Hannibal is at the Gates ?

1. Pardon me, if Zeal hath eaten me up, and I cannot contain : O *Jerusalem*, for my Brethren and Companions sakes, I will now say, Peace be within thee ; yea, because of the House of the Lord our God I will seek to do thee good.

2. Who considers how much is owing to niceness and strangeness to the Government, for the Hazards and Blood of *Ireland* and *Scotland* already ? Who weighs the further Consequences of it both at home and abroad ? Where is our Compassion to our Protestant Brethren, our Concern for the Reformation, our Charity to the Kingdom, our Justice to our Protectors, our Kindness to our Friend, our Gratitude to our Deliverer from Popery and Tyranny ? These are substantial and weighty Things ; and what are the Colours of a pretended Reputation in comparison of these ?

3. What do we mean upon a Point of Honour, to throw a Glove to the Government ? Is it reasonable or fit for us to provoke the King to a Quarrel, who hath so many Enemies already, and must stake three Kingdoms to our little Reputation ; yea, the Interest of the Protestant World too, of which he is made the Protector ?

4. Is it not Satisfaction enough for you that you have plaid the Men, and stood it out as long as there were the least hopes of serving the Interest of the late King, and so long vindicated your Loyalty to him ? Is it not now become morally impossible he should ever return but by the Assistance of the *French* King ? that is, without enslaving us openly to the Antichristian Powers (of which he is the Head) under a haughty, cruel, and most barbarous Conqueror.

5. Besides, how unaccountable are Principles that engage a Man against his own, as well as the Publick Interest ? as if a Man were bound to oppose and fight with himself and a Il about him. Certainly this is a miserable strait, and such as one cannot imagine the wise and good Providence of God should bring us into.

6. By disobeying the Law, and our Distance with the Government, we continue a Breach, at which a common Destruction may enter ; then we know we are lost in the common Calamity. If God in Mercy prevent that, and preserve us with wonder against our own Averseness as he hath done, then there is yet a Breach betwixt the Government and us : If we do not destroy the Publick and our selves

selves that way, yet we may destroy our selves when we might help it.

Dr. Donne. " A Man may be *Felo de se*, by destroying himself by our Law; and *Fur de se*,
How one is " by depriving and stealing himself from him to whom his Service is due by the
Felo de se. " Imperial Law; and *Proditor de se*, by the Law of Nature, if he descend from the
" Dignity of Humanity, and submit to the Danger which he might avoid. I speak
as to wise Men; judg ye what I say.

7. 'Tis a plain thing I am about to speak, which, if duly ponder'd, must needs put an end to the whole Controversy, at least I think so; 'Tis this:

The late
King in the
Fr. King's
Interest.

None can be ignorant that the late King hath put himself into that Condition, that the *French* King is now actually endeavouring to serve himself of him for the Conquest of these Kingdoms; he hath put himself absolutely into the *Monsieur's* Power; he truckles under him in the *Irish* Commissions; he hath either sold his Dominions to that King, or so deliver'd up his Interest in them to his management, that 'tis a piece of madness to imagine that the *French* will reap the advantage of any Success God may suffer to be obtain'd against us. Perhaps we may think the poor King *James* was forc'd to it; but I know you will say, you had no hand in that Force, and you could not help it. And is not the thing *de facto* so? Is it any thing to you by what Means, or upon what Motives this came to pass? But it being certainly so, you cannot now think but that seeing the State of things is such, your Allegiance to King *James* is ceased, unless you owe it also to the King of *France*, which God forbid; for while you continue to discountenance the Government, you cannot do more to further the Designs and Methods of our Ruin.

Expediency
the Rule of
Practice in
indifferent
things.

8. The Apostle makes Expediency the Rule of our Practice in things indifferent; so that some things are to be done or not to be done, because expedient or not expedient, upon which this Objection is urg'd. Now if it be indifferent in it self to take or refuse the Oath, I hope what hath been said is enough to satisfy us where the Expediency lies. All things are not expedient; Why? Because all things edify not; much more if they ruin and destroy. It is something, *Non promotum publicum Ecclesiae bonum*, if they do not promote the publick Good of the Church; much more *si magis destruant*, if they tend to its destruction, as Authors gloss upon the Text.

Oliver's
Usurpation
answers not
our Case.

9. One would think this Consideration might fully convince us that our Obligation to the present King, &c. is widely different from that which lay upon the People during *Oliver's* Usurpation; they had reason to refuse, or at least to suspend the Recognition of a Tyrant, whose Government was Arbitrary, and was never own'd by the People in a Free Parliament, who never took upon him the Name of King, the proper Title of our Sovereign in all our Laws; under whose Violence and great Oppression the Kingdom in general groaned for Deliverance in the return of the rightful King, and might laudably hazard their Lives and Estates if there were any hopes; the accomplishment whereof by a wonderful Providence in its due time was happily effected in the Restauration of King *Charles* the Second.

But what is our Case now? is it not quite contrary? We do acknowledg we are now rescu'd even from Destruction as well as Oppression: And what can we look for upon a new Change but a Scene of Blood, the loss of all our Civil and Ecclesiastical Liberties, under *French* and Popish Slavery? What can we hope for, if the Lion bereft of his Whelps, thirsting after Revenge, be let loose upon us? Will not his Rod that smarted before be turn'd into a Scorpion, and the latter end of his Tyranny be worse than the beginning?

10. Blessed be God, there is an *unclean Spirit* ejected, and our *House* is swept and garnish'd: Is his return to be courted, or indeed to be hazarded? If he should re-enter, will he not pester us with more and worse Devils if possible? when in vain and too late, perhaps we may wish we had never encourag'd or occasion'd our renew'd and aggravated Misery. It highly concerns us to do what we can to prevent it; and I see no other way left us to shew our apprehension of the Danger, but by comforting the King who, under God, hath dispossest'd us; and who only, under Heaven, is the visible Instrument of our Preservation from that *last Estate* (to use our Saviour's Words) *that will be worse than the first*; which I hope we are yet sensible was bad enough: and how we can do this, without assuring him of our grateful and chearful Allegiance and Fidelity by taking the Oath, I cannot see; at least I doubt not but enough hath been said to demonstrate the Inexpediency of our continuing to refuse it, and consequently upon that Argument, a necessity of taking it, notwithstanding the Objection of the Reputation of the Church of *England* for her singular Loyalty.

11. To conclude; I need not mind you, since the three Estates in Parliament, with the generality both of Gentry and Clergy throughout the Kingdom, have left you (except perhaps three or four in a County, take one with another) who yet stand out: I say, I need not mind these very few in comparison, how fitly they took to themselves the Name of the Church of England; or how likely a thing it is for them, by scrupling the Oath, to preserve her Reputation of Loyalty in their own sense. Let the Time past suffice, that they have endeavour'd it so long as there were any hopes to do it; but now if the Case be plainly desperate, 'tis time for them, upon all the Arguments so many worthy Men have urg'd in print for their Satisfaction, to cry Quarter, and to yield to the prevailing Power; I mean to come in and submit, and give the requir'd Security thereof, by taking the Oath of Allegiance to King William and Queen Mary, whom God long preserve and prosper.

Parliament and the generality of the People have taken the Oath.

An APPENDIX.

The Objection from the Word Allegiance consider'd:

AFTER I had put an end to the former Discourse, I heard of the following Objection.

Object. It is said, that *Allegiance* being the word in the new as well as in the old Oath, it seems it ought to be understood in the same Latitude and Sense in both: Then how can we safely swear *Allegiance* to the present King and Queen in the same sense, in which we have sworn Allegiance to the former King, while the former King is alive?

Ans. I hear this is the Scruple of some ingenuous Persons, for whose sake I shall accommodate my Answer to their own Principles as near as I can: First, By shewing, that those two Oaths, tho both are call'd *Oaths of Allegiance*, yet they are not of the same Latitude in the Matter of them. Secondly, That tho in a great measure they are admitted to have the same sense; and tho in that sense in which we have sworn Allegiance to the former King, we are requir'd to swear Allegiance to the present King and Queen, yet we may safely and honestly do it.

1. For the first. It is plain, that the former Oath, tho it be call'd the *Oath of Allegiance*, yet it hath more in the Matter of it, than can be imported in the Word *Allegiance*: it hath two manifest parts of a different nature; the first acknowledg-eth the King's just Title to the Crown as rightful King, and is found in the form of an *Affertory Oath*.

The old Oath of Allegiance explain'd, and compar'd with the new.

The other is as plainly *Promissory*; *I will bear Faith and true Allegiance*, &c. Now tho with respect to this *promissory* part of the old Oath we should grant, that by the new Oath we are to swear in the same words, and in the same sense; yet 'tis more than evident, that these words cannot be intended to assert any thing about the Title of the Crown; and in all likelihood, the *Affertory* part of the former Oath was left out on purpose in the new, to avoid matter of Scruple or Offence.

Yet 'tis confess'd that Argument suffers but little in its strength if both these Oaths agree, or are the same in any substantial Matter, while Men doubt that the former Oath doth oblige them to bear Allegiance to King James, in the same sense in which we are requir'd to take the new one. It behoves me therefore now to prove the second thing propos'd, viz. That tho *Allegiance* have the same sense and meaning in both, and we have before sworn it to King James in that sense, yet we may safely and honestly swear to bear Faith and true Allegiance to King William and Queen Mary.

Object. The Objection in short is this: If Allegiance sworn to King James be due to him by virtue of our Oath, it cannot be due to King William and Queen Mary in the same sense it is due to King James.

No Allegi-
ance due to
K. J.

Answ. The Answer is as short; for if Allegiance be due to King *William* and Queen *Mary* in the same sense that we swore to King *James*, then 'tis not due to King *James* tho we so swore; for our former Oath cannot oblige us to King *James* to the injury of King *William* and Queen *Mary*, it would then be a *Bond of Iniquity*.

We see the Objection and Answer stand both upon the same ground, namely, That Obedience or Allegiance cannot be due to two Kings in the same sense at once. Therefore if I prove that Allegiance is due to the present King and Queen, it must be yielded, that our former Oath to King *James* cannot oblige us to pay such Allegiance to him.

My Argument is this: Allegiance is due to the Supreme Power in being, therefore it cannot be due in the same sense to any other, because the same Allegiance cannot be due to two Kings at once; but King *William*, &c. are the Supreme Power in being.

K. W. and
Q. M. the
Supreme
Power in
being.

To this what can be reply'd, but either that King *William* and Queen *Mary* are not the Supreme Power in being, against all sense; or, that Allegiance is not due to the Supreme Power in being, against all kind of Law, as I shall shew presently?

Object. But may it not be suppos'd, that there may be a King *de jure*, that is not so *de facto*? And is there no Allegiance due to such a King, especially if we have sworn it to him?

Answ. But was he not King *de facto* as well as *de jure*, when we swore Allegiance to him? Was that Oath ever taken but to the King, and under that very consideration, as actually our King? We suppose a King *de jure*; but what's that? He hath Right to be King: And doth not that very thing prove that he is not King, as he hath Right to be? And consequently he hath Right to our Allegiance no otherwise, but as he hath Right to be King, and dependently upon it; that is remotely, and upon the supposition that he obtain his Right, and be actually King again, as he was when we first sware Allegiance to him.

We owe Al-
legiance to
the King
while he
continues
King.

Here the Rule seems to have place [*Rebus sic stantibus*] we owe Allegiance to the King while he actually is so: If he ceases to be so, we do not owe him that Allegiance that is due to a King in Possession: If he have a Right to be King, we do not therefore owe him actual Obedience until he recover and enjoy, or have that Right indeed upon which depends our Obedience. Our Oath at first included that known Condition, *Si res in eodem statu permanferint*.

Object. But we have sworn to King *James*, and who can absolve us? or how can our Obligation to him cease or be dissolv'd?

Answ. The strict Question here is not, Whether that Obligation be suspended only, or wholly taken off? that is, Whether there remains no Obligation upon us to King *James*? but whether the Obligation be such as prevents or hinders our lawful swearing Allegiance to the Powers in being? There is a Duty owing to the present Government, which must be first allow'd; and then the suppos'd Obligation to the late King, whatever it be, must be such as may consist with that Duty.

How Alle-
giance to
K. J. ceases.

I need not here mention how many ways our Allegiance to the late King is ceas'd; From the removal of the Object, he ceasing to be King; from the Rule of all Allegiance, the present Laws, the Reason and End of Government, or the like. 'Tis enough to my present purpose to prove that Allegiance is due, and consequently we may lawfully take the new Oath to our present King and Queen. And therefore no consideration of any former Oath should make us deny or delay the performance of our Duty to them.

This is the Point I am come to prove, which seems to me very easy to be done, from the Law of Nature, the Law of Holy Scripture, and the Law of the Land.

1. Nature.

First, Obedience to our Parents, civil as well as natural, is a Law of Nature. Our actual Governors are our nursing Fathers and nursing Mothers: This is of moral and eternal Reason, and the Obligation thence upon us is antecedent to any Obligation that we can be suppos'd to contract by our Oath to any particular Person contrary thereunto, which, as our Law saith, is but of *human Provision*.

Calv. Case.
Bp Sander-
son.

Allegiance
founded in
Protection.

Our Law-Books ground our Allegiance upon the same Reason: *Protectio trahit Subjectionem*; Allegiance is founded in Protection upon moral Arguments of Justice and Gratitude. And the *Casuiſt* affirms, "Allegiance is intrinsecal, and so essential a Duty, and as it were fundamental to the Relation of a Subject (*qua talis*) as that the very Name of a Subject doth after a sort import it. The Consequence

quence is, that Allegiance is not due to one that hath not Possession, and therefore hath not Power to protect us, whatsoever his Right may be; but it is due to the present King, &c. that doth in Fact protect us, without any consideration of his Right to the Crown.

2. Allegiance (saith the Bishop again) is a Duty that every Subject by the Law of Nature, owes to his Country, and consequently to the supreme Power thereof; that is, to his Country as the End, to the King as the Means of that End. Case of Edgag. p. 109.

Now the End being more noble than the Means, for which the Means hath both its Use and very Being as such; if that which is ordain'd to be a means of Preservation of our Country, change its Nature and proper Intention, and becomes a Means and Instrument of its Destruction, we cannot, in the Reason of things, be bound any longer to use it. For, as he saith in another place, Whatsoever is done for any End, is so far to be done, as it doth seem necessary and profitable for that End. Left. 5. de leg. S. 19.

Now 'tis not deny'd, but that the Government in the hands of King James was us'd, not for the Preservation of our Country, but its Destruction, and contrary to the Ends of all Government: Yea, such as pretend some Allegiance yet due to him, do they not rather fear than hope for his return to the Government? which, in all moral Assurance, they know would be more pernicious to us than it was before he left us. K. J. us'd his Power for the destruction and not preservation of the Government.

Besides, we are now under Powers that do actually and happily serve the Ends of Government. We must hence conclude, that by virtue of our Allegiance due to our Country, which is of first and greater Consideration, our Allegiance to our late King, as contrary or inconsistent therewith, is dissolv'd and become due to the present Government.

3. Further; By the Law of Nature, *Salus Populi* is both the supreme and the first Law in Government, and the Scope and End of all other Laws, and of Government it self. Now how this can be preserved by our Allegiance to any other but the Government in being, is I think unintelligible.

Perhaps some are yet to learn, *what that meaneth, I will have Mercy and not Sacrifice*: What Sacrifice? Why, God's own Service. What Mercy? Why, to save Life; either of an Ox fallen into a Ditch, or a sick Man. Now what was that Service of God that must yield to that Mercy to Man and Beast? Was it the Observation of the Sabbath? and what was that but as it were an Oath of Allegiance to God? It is, saith God, *a Sign between me and you*; yet this Oath binds not, this Testimony is invalid, this Service is no Duty, when it comes in competition with Charity or Mercy to Man or Beast. The reason is, there is a prior and eternal Obligation to those moral Duties. Exod. 31. 13.

Is not then the Service of the King, tho sworn in the Oath of Allegiance (that Sign or Testimony between King and Subject) is not this discharg'd or dispens'd with, when *Salus Populi*, the Preservation of three Kingdoms is concern'd and in danger, and the more by the colour of our pretended Allegiance? Salus Populi.

I think there is much weight in the words of a late Author: "I can be sure, saith he, of nothing, if I am out in this Notion, That no Oath can bind any longer, than the Obligation thereof is consistent and reconcilable with *Salus Populi*, the Welfare (the spiritual and temporal Welfare) of the People, which is the sole End of all Government."

And seeing the Safety and Preservation of the Community depends upon the Promise of Allegiance to the Supreme Governor for the Time being; and the Subjects are under a plain necessity, either to hazard or ruin the Publick, or to transfer their Allegiance; they may certainly do it lawfully, yea, are bound to do it by the Law of Laws; *Salus Populi suprema Lex*.

Secondly, So much briefly for the Law of Nature. Now do not the Holy Scriptures warrant the same? Do we find any, either in the old or new Testament, that scrupled or were question'd for their Obedience to the Powers in being? I think the present Reverend and Learned Dean of Sarum, Dr. Pearse, hath a Sermon in print, to prove Submission to Governments a Fundamental of the Christian Religion. I am sure our Saviour, and more largely St. Paul, require our Obedience to the Powers that are, without any consideration of their Title, merely because of their Authority and Administration; in which the Apostle expressly founds the Duty of Subjection for Conscience sake. The Arguments to this purpose lately urg'd from Romans 13. by several worthy Authors, I despair of ever seeing tolerably answer'd, to whom I refer my Reader; only let us meditate those notable Counsels of God by the Prophet, 2. Scripture.

Prophet, *Seek the Peace of the City (Babylon, where the People were Captives to their tyrannical Enemies) and pray unto the Lord for it; for in the Peace thereof ye shall have Peace.* Jer. 29. 7.

3. Our
Laws.

Thirdly, Lastly, Is there not sufficient in our own Laws to justify our Allegiance to a King regnant, without our being satisfy'd touching his Title? Have we not the Authority of former Ages? Is not our Statute-Book a clear Testimony of it? In what time was it ever deny'd? Who was ever censur'd or punish'd for granting it? Are not all such Kings who reign'd without Right, recorded as Kings of *England*, and their Laws as authentick and obligatory? Is it not evident then, that Allegiance due to a King regnant (with right or with none) is agreeable to the State and Principles of this Monarchy, and founded in the Usage and Common Law of *England*?

But that which methinks should put the matter beyond question, is the known and often mention'd Stat. of 11 *Hen.* 7. 1. grounded, as it speaks the Sense of the Nation, upon Reason, Law, and good Conscience. And tho the worthy Author of *Considerations* and others, have with a great deal of strength argu'd hence to satisfy the Scruples of our Brethren, and it cannot be expected that I should add any thing very considerable; yet I shall very briefly observe a few things for our purpose from it.

1. 'Tis thereby acknowledg'd, that a King *de facto* hath the Name and Stile of a King of *England*.

2. We are to recognize such a one as our Sovereign Lord.

Allegiance
due to their
Majesties
from all
their Sub-
jects.

3. That Allegiance is due to such a King from all his Subjects.

4. That by reason of the same Allegiance, they are bound to serve him, even in his Wars.

5. That they are never hereafter to be question'd (tho the lawful King should recover his Right) for so doing their true Duty and Service of Allegiance, as the Words are.

6. That War made against such a King by his Subjects, is Rebellion. All these things are plain in the Letter of that Law, which hath continu'd unrepeal'd or un-question'd for above two hundred Years; and consequently so long hath been the approv'd Sense of the whole Nation, *That Allegiance and true and faithful Service is due to our Sovereign Lord for the time being, whatever his Title be.*

A King
de jure
only is not
King.

Hence it follows, that in the sense of the Law, a King *de jure* only, is not King. The Statute saith, the King for the time being; and seeing we can have but one King, he that hath only right to be King, is no King in being, or for the time being. Hereupon I suppose the great Lawyers inform us, that the King *de jure* only is not within the *Purview of the Statute of Treason*; is not, as they say, *Seignior le Roy*.

Consequently, if Treason cannot be committed against a King *de jure*, while he is out of Possession, Allegiance cannot be due to him: which is a Duty we owe to the King as our Sovereign Lord; and none in the Eye of the Law is so, but the King in Possession. Thus the formal reason of the Oath of Allegiance to the late King ceasing (if he be no King in Law, because out of Possession) the Obligation of that Oath, with respect to him, ceaseth also: besides, much of the matter of our former Oath is gone too, for we were sworn to bear true Allegiance to him in revealing and preventing Treasons against him; and now he is not an Object capable of Treason.

But they also tell us, Treason may be committed against a King regnant without Right; and if so, 'tis thence evident that Allegiance is due to him: against which Treason is directly contrary. Treason is an Offence against our natural Allegiance; which appears from the form of Indictments; the words are, *Contra debitum Fidei & Ligantiae suae*, against the Duty of Faith and true Allegiance; so near are they to the very Words in the Oath of Allegiance.

Their Ma-
jesties in
possession of
the Govern-
ment.

In a word, to apply it, are not *William* and *Mary* now regnant and in full Possession of the Government? To deny this, is to impose upon our Senses: Are they not our Sovereigns also, to whom we owe Allegiance? This to question, is against all kind of Law. May we be guilty of Treason against them? Then suppos'd Allegiance to their Enemy, seems to be a degree towards that Treason, and to be a treasonable Principle, if brought into Act; it tends apparently to the Death of the King and Queen: and how far the very Opinion is from Imagination, and consequently from the Formality of Treason, should be soberly consider'd, at least to abate our censure of the Government, which with some Severity requires our Allegiance; and if it may be, to persuade us to timely Conformity therein. The

The Sum is, I think we cannot justify our refusing to take the new Oath of Allegiance to King *William* and Queen *Mary*, without destroying Acts of Parliament, changing the Laws of *England*, and razing the Principles and Laws of Nature.

The Words of 11 Hen. 7. cap. 1. bearing to our Purpose, are these.

“ The King our Sovereign Lord, calling to his remembrance the Duty of Allegiance of the Subjects of this his Realm ; and that they, by reason of the same, are bound to serve their Prince, for the time being, for the defence of him and the Land, against every Rebellion, Power and Might rear’d against him—— And that ’tis not reasonable, but against all Laws, Reason and good Conscience, that the said Subjects —any thing should lose or forfeit for doing their true Duty and Service of Allegiance——It be therefore ordain’d, that from henceforth no Persons that attend upon the King and Sovereign Lord of this Land for the time being, in his Person, and do him true and faithful Service of Allegiance, be in any wise convict, &c.

A Resolution of Certain Queries concerning Submission to the present Government.

V I Z.

- I. *Concerning the Original of Government.*
- II. *What is the Constitution of the Government of England?*
- III. *What Obligation lies on the King by the Coronation Oath?*
- IV. *What Obligation lies on the Subject by the Oaths of Supremacy, &c?*
- V. *Whether if the King violate his Oath, and actually destroys the Ends of it, the Subjects are freed from their Obligation to him?*
- VI. *Whether the late King hath renounced or deserted the Government?*
- VII. *Whether on such Desertion the People, to preserve themselves from Confusion, may admit another, and what Method is to be used in such Admission?*
- VIII. *Whether the Settlement now made, is a Lawful Establishment, and such as with a good Conscience may be submitted to?*

The INTRODUCTION.

THERE is no doubt but the imputation of Disloyalty will, as the Viper that came out of the fire and fastn’d upon St. Paul’s Hand, be fix’d on the Church of *England* from the Dissenters of all sorts : The Clamour is already very loud, Where is the Loyalty of the Church of *England*? Which tho *ad homines* it might well be answer’d, by demanding, Where is the Loyalty of the Papists? whom the King had so far oblig’d, as to put them into the most considerable Offices of the Nation, excluding better Subjects; yet none of them, tho they were well arm’d, and in great numbers, ever struck a stroke to defend the King against the Assailants, altho by their mischievous Council they had reduc’d him to those unhappy Circumstances. And the other Dissenters, who pretended to be great numbers, and to have so great a Zeal for his Majesty, for the favours granted them by the Indulgence, and share in the Government, as with their Lives and Fortunes to assist him,

The Clergy
vindicated.

him, yet were most forward to unite against him. But what have the Clergy done to incur the Note of Disloyalty? Did they enter into an Association against the King? Were they call'd in Convocation to declare their Judgments as to the present juncture of Affairs? Did they not, as long as the King remain'd in his Kingdom, obey him in all things lawful, according to their Doctrine of *Non-resistance* and *Passive Obedience*? It could not be expected that they should take Arms, or expose their naked Bodies to the Invader's Sword. They kept their Stations, as their Duties to God and the King oblig'd them, committing themselves to God, and waiting for his Salvation. And methinks when the Bishops and Clergy were accus'd of Disloyalty by some for not obeying the King in reading his late Declaration for *Liberty of Conscience*, which they could not do with a good Conscience, and were generally applauded for such Refusal; they should not now be decry'd for keeping to the same Rule, of not doing such things for which their Consciences (till better inform'd) will condemn them. But we are now brought into a great strait, in which our Adversaries will by all Arts imaginable endeavour to keep us; and which way soever we turn, they will turn it to our Ruin if it be possible. If we comply with the present Establishment, they will rob us of our Reputation and Faithfulness towards the People committed to our Charge, as if we had misled them, and taught them those Doctrines which we our selves never intended to practise. If we comply not, they judg us Men worthy to be depriv'd of our Livelihoods, and with our Families to be expos'd, as in the late War, to Sequestrators and new Committees. These are no groundless Jealousies, but real Fears, and in some degree Matters of Fact; for almost in every Parish there are Persons of different Persuasions; and if the Ministry pray for the present King and Queen according to order, one part of the Mob will condemn him for an Apostate from his own Doctrine, and a Rebel. If we keep to our Liturgy, which by Oath we are bound to do (and tho we have as yet no Order regularly transmitted to us for altering any of those Prayers) there is another Party threaten to knock us on the heads; and great Affronts have been offer'd to several conscientious Ministers on both these Occasions. What then shall we do to extricate our selves from these Mazes, which are daily enlarg'd and become more dark and difficult? for 'tis not the Case of a few Bishops or private Ministers only, but the Case of the Church of *England*, which if our Enemies can divide in this, they will easily destroy us, and not us only but the whole Interest of the Protestant Churches abroad, whose Welfare much depends upon our Union and Agreement in this Nation. It therefore concerns us all seriously and sincerely to enquire after the due Measures of Obedience to our present Governors, that doing our Duties according to the Commands of God, and the Dictates of a well-inform'd Conscience, we may stop the mouths of such as are open'd against us, and ready to swallow us up. I shall at present only consider

The Objection against the Church of *England*, which is, That she hath deserted the King contrary to her Oaths, her own Doctrine of *Passive Obedience*, and their Declaration for *Non-resistance*, viz. That it is not lawful on any Pretence whatsoever, &c.

How far
Passive O-
bedience
and Non-
resistance
Doctrine is
to be
charg'd on
the Ch. of
England.

Ans. 1. That the Doctrine of the Church, as to the present Juncture, is not known but by their Determination in a Convocation duly call'd; for what some of the Clergy do act or declare, is not to be imputed to the Church. In the War rais'd against *Charles* the First, some of the Clergy, as *Sibthorp* and *Manwaring*, stretch'd the Prerogative too high; others, as *Marshall* and *Calamy* (all which pretended to be of the Church of *England*) depress'd it as low: But neither of these Extremities could be charg'd on the Church which kept in a middle way. And under the late King some were of the same Opinion with *Sibthorp* and *Manwaring*, as the Bishops of *Chester* and *Oxford*; others refus'd to comply so far as to publish his Declaration: what the Church would have done in Convocation, is a *Non constat*.

2. As to the Doctrines of *Non-resistance* and *Passive Obedience*, which were not so generally taught; but others did declare, That those general Rules might admit of just Exceptions, and had certain tacit Conditions and Qualifications in them, which in case of great Alterations in the Affairs of Government, would appear to be necessary and justifiable; and they suppose that if such a Case as ours now is had been thought of or propos'd, it would certainly be excepted or provided against. And they think it fit that the Condition and Circumstances of the Times wherein such Doctrines were publish'd, ought to be consider'd; for from the Reign of *Queen Elizabeth* we liv'd under Protestant Princes governing by Laws, and Defenders of our

our Faith; who tho they erred from the Laws and Honour of the Church in some lesser Matters, as the necessity of their Affairs and Counsels persuaded them, yet as to the Fundamentals of both Laws and Religion, they resolutely adher'd to them: yet was there in the People such a ferment of Rebellion infus'd by Malecontents, persuading them of great danger both to their Religion and Laws, that the People were always ready to take fire from the Sparks of groundless Fears and Jealousies, and at last broke forth into such a Flame as well nigh turn'd the whole Nation into Ashes: And this was done against a Prince who as much abhor'd Tyranny and Popery, as any of his Subjects could. It was therefore necessary that when after twenty years Confusion we were brought (as by a Miracle) to settle on our first Foundations, the strictest Rules and Doctrines for Obedience should be inculcated to the People. Thus by an ἀπελπίαν καὶ αὐτοδολίαν, when a Stick is crooked we bend it to the contrary part to bring it streight; and the Rule is generally approv'd, *Iniquum petas ut æquum feras*, To demand more than is due, that we may not receive less. It is observ'd by Dr. Barrow, that both Moral and Political Aphorisms (tho deliver'd in general Terms) do need Expositions, and admit Exceptions, else they would clash with Reason and Experience: The best Masters of such Wisdom interdict things apart, by unseasonable or excessive use, to be perverted in general forms of Speech, leaving the Restrictions which the Case may require or bear, to be made by the Hearers or Interpreters discretion, whence many seemingly formal Prohibitions are to be receiv'd only as sober Cautions: So far that learned Doctor. So Bishop Usher's Sentences deliver'd in general Terms, are not always intended to be taken in their full Latitude, but to have their commodious Restrictions according to the Quality and Nature of the Matter in hand, P. 5. *Of the Power of Princes*. And in dangerous Cases, *Abundans cautela non nocet*, which may serve as a Reason for our pressing the Duties of *Non-resistance* and *Passive Obedience* in such dangerous Times as we liv'd in, in such general Terms. And if we should collect all that the antient Fathers have said in the heat of Controversies and Disputations, or in their Panegyricks and Invectives, and compare them with their Dogmata or Opinions, when they wrote their mature Judgments of Matters of Faith and Doctrine, we might find them to contradict themselves more than the present Church doth contradict her self in these Doctrines of *Non-resistance* and *Passive Obedience*. Thus for instance, St. Augustine disputing against the Pelagians who defended Free-will, wrote as if he had been a Manichee, and defended an irresistible Fate; and when he disputed against the Manichees, he seem'd to be a Pelagian, and to defend Free-will. And those who are Predestinarians in their Writings, in their Sermons to the People agree with the Arminians: And the Church of England, which ever since the Reformation taught the Doctrine of *Non-resistance* in any Case whatsoever, have yet manifested their Judgment, that this general Rule may in some Cases admit exception, as by the Assistance given to the Scots, French and Dutch Protestants in defence of their Religion and Liberties, as hereafter mention'd may appear. God himself revers'd the Sentence denounc'd in general Terms against the Ninivites, upon their performing the tacit Condition of returning from their evil Ways, and yet there was no variableness in God: And if there be any such tacit Conditions in the Laws and Declarations of Men (as is confess'd by many wise and good Men) the sense of such Laws and Declarations may differ from the Letter, when the state of Affairs doth alter; for if it had been foreseen that a King should arise that would exercise Arbitrary Power, and subject the Kingdom to the Pope, destroy the Religion and Properties of the Subjects (a case so odious and improbable that it could not well be suppos'd) the Doctrine of *Non-resistance* and *Passive Obedience* would not have been prest to those Ends (which were intended to the contrary) viz. to make way for Popery, and Tyranny, and Confusion. *Tempora mutantur, non nos*; We adhere to our first Principles still, for, *Levitas non est destituere, si aliquid novi intervenerit eadem mihi omnia præsta, & idem sum*.

See his Sermon on Eph. 5. 4.

3ly. But as to Matter of Fact, let it be inquir'd what have the Clergy acted contrary to those Doctrines: While the King continu'd in the Government, they continu'd their Obedience, even when their Liberties and Properties were actually taken away, and their Lives were at stake. Since the King's departure they have been under restraint, and an impossibility of defending him, whom the Nobility, Gentry, and Commonalty, and his own Army had generally deserted, and joyn'd with the invading Army. Hitherto then they have been Passive; but the grand Inquiry is, How they ought to behave themselves under the present Circumstances (the present King in vindication of his Queen's Right, which was otherwise desperate,

rate, and not to be recover'd by Petition or Bill in Chancery, got full possession of the Kingdom, and by a National Consent in Parliament they are declar'd King and Queen) Whether our Allegiance be due to the late King, or the present Power, under whose Protection we live and enjoy our Religion, Laws and Liberties, which were so near lost. Some Men of great Reputation for Learning and Piety, think themselves oblig'd by their former Oaths: And the present Government think they cannot be secure till the Clergy are oblig'd to them by new Oaths, the refusal whereof may draw on Suspension and Deprivation, to the undoing not only of themselves and Families, but the establish'd Church at home, and the Protestant Interest over all Christendom, if any Wars or Divisions should be occasion'd by such refusal. For the prevention of which, I earnestly intreat my Brethren of the Clergy to lay aside all Prepossessions and Prejudices, and seriously to consider the Answers given to the following Queries, which the Author hath collected from (a) the Writings of Men of great Integrity, Learning, and Experience, partly for his own satisfaction, but mostly for the satisfaction of others, whose Welfare is as dear to him as his own; that yielding due subjection to the King and Queen, and all that are now in Authority, *we may lead a quiet and peaceable Life in all Godliness and Honesty.*

The Original of Government in general.

God the
Fountain of
all Govern-
ment.

GOD is the Fountain of all Government, being not the Author of Confusion but of Peace, and hath establish'd Order among all Creatures; in the Angelical Nature he hath constituted several Orders, Angels and Archangels, Principalities, Powers and Dominions; in the Celestial Bodies, the Sun to rule by Day, and the Moon by Night, and one Star differing from another Star in glory. And when he made the first Man, he gave him dominion over all the Works of his hands; he was to rule his Wife, and she to live in subjection to him; and when he became a Father, his Children were to yield him Obedience. And when the Families of the Earth were multiply'd, so that one Father or Family could not claim Authority over the rest; and considering the great Corruption of Nature, it was impossible but Violence and Injustice would be practis'd, Mankind saw a necessity of setting up one common Father over many Families, to suppress Violence, redress Injuries, and distribute Justice.

Society and
Compact
the Founda-
tion of
Govern-
ment.

To this purpose Mr. *Hooker*, l. 1. c. 10. Two Foundations there are which bear up Publick Societies, the one a natural Inclination, whereby all Men desire a sociable Life and Fellowship; the other an Order expressly or secretly agreed on touching the manner of their Union in living together: for if when there was but one Family in the World, the means of Instruction, Humane and Divine, could not prevent shedding of Blood, how could it be but when Families were increas'd, each providing for itself, Strife, Contention and Violence must grow among them? To take away such mutual Grievances, Injuries and Wrongs, there was no way but only by growing unto Composition and Agreement among themselves, by ordaining some kind of Publick Government, and by yielding themselves subject thereunto, that to whom they granted Authority to Rule and Govern, by them the Peace and Tranquillity of the rest might be procur'd — No Man might in reason take upon him to determine his own Right; therefore Strife and Troubles would be endless, except they gave their common Consent to be order'd by some whom they agreed on, without which Consent there was no reason one Man should take on him to be Lord or Judg over another — and over a multitude of Families; impossible it is that any one should have compleat Power, but by consent of Men, or immediate appointment of God. All publick Regiment of what kind soever, seemeth evidently to have risen from deliberate Advice, Consultation and Composition be-

* St. *August*. l. 3. concerning Order says, There are two ways of resolving Doubts, either by our own Reason, or the Authority of the most Learned.

Nam qui consiliis pollet nihil ipse, nec audit Suadentes alios, nullos homo vivit in usus.

tween Men judging it convenient and behooful. And (the Corruption of Nature presuppos'd) the Law of Nature doth necessarily require some kind of Regiment; and Men saw, that to live by one Man's Will, became the Cause of all mens Misery; this constrain'd them to come to Laws, wherein all men may see their Duties, and know the Penalties of transgressing them. And tho wise and good Men are fit to make Laws, yet Laws take not their constraining Power from those that make them, but from the Power which gives them the strength of Laws. And by natural Law, the lawful Power of making Laws, whereto all Societies are subject, belongs so properly to those entire Societies, that for any Prince or Potentate of what kind soever, to exercise the same of himself, and not either by expresse Commission from God, or Authority deriv'd from their Consent, upon whose Persons they impose Laws, is no better than Tyranny; Laws they are not which publick Approbation hath not made. So far judicious *Hooker*, in as evident a manner as any Demonstration in *Euclid*; to which add that Observation of *Mr. Selden*.

Selden de Jure Nat. l. 1. c. 8. p. 106. "By permission of Nature it hath been granted, that whatsoever hath been by Men joyn'd in Society, limited, forbidden, or constituted, that they are bound to keep who have so consented, according to the Conditions and Qualifications with which it is prescrib'd, even as many as have, and as they have given their Consent. But whence is it they are so bound? From the Authority of a Deity, *i. e.* of Man's Superior; even in those things the rise of the Obligation is deriv'd, and therefore from some Heads of the Obligation of the Law of Nature. *Lud. Vives* on *St. Aug. de Civitate Dei, l. 4. c. 5, 6.* takes notice of the first words of *Justin*, viz. That in the beginning the Rule of Nations was in the hands of Kings, whom not popular Ambition, but their moderate Carriage, approv'd by the Good, advanced to that height of Honor: on which he gives this Comment, That the People elected those Kings to themselves to be Guides, Governors and Overseers of the Publick Interest; and they were not compel'd to take such a one as hapned any way to them; neither did Nobility or the seeking of a Party carry it; every Man's own private Good, with the Good of the Publick, was so dear and near to him, that it made him to make choice of none but the best. And it is observable from *Livy* and other *Roman* Historians, that their first five Kings were chosen by the Senate and People, and that *Tarquinius Superbus* was by them depos'd: *Neque enim ad jus Regni quicquam præter vim habebat, ut qui neque populi jussu neque patribus autoribus regnavit.* To which that of *Juvenal* agreeth, speaking of the People, *Satyr. 10. Qui dabat olim Imperium fasces legiones omnia.* In our Nation when the *Romans* invaded the Land, the People chose *Cassibilane* their King. On the death of *Hardicanute*, the third *Danish* King, they chose *Edward the Confessor*; and on the death of *William the Conqueror*, they chose *William Rufus*; and of four that succeeded the Conqueror, not one had right by nearness of Descent.

Mr. Selden's Opinion.

It is objected against this Opinion of electing our Governors, That the People having no power over their own Lives, cannot give that Power to any other.

Answ. It is not the People that confer this Power, but God, who by his Law hath given this Power to all supreme Magistrates, That he that sheddeth man's Blood, by man shall his Blood be shed. The People are only a medium of conveying this Power of the Magistrate to a particular Person; God is the Author of the Magistrates Power, to which the punishment of Murderers is annex'd: for the general Rule is, That the Magistrate shall bear the Sword for the punishment of evil doers; and capital Punishment is in some Cases just, the People only apply this general Rule, and determine the Power to be in such a particular Person, for the terror of evil doers; so that tho I, being a private Person, have no Power over my own or another man's Life, yet the Magistrate hath by the Institution of his Office from God. *St. Paul, Acts 25. 11.* says as much, *If I have done any thing worthy of death, I refuse not to die.*

How Power is confer'd by God, and by the People.

The Ordinance of Government is from God and Nature, but the Species of it, whether by one or more, is from Men; and the Rule for Administration, is by mutual Agreement of the Governor, and those that are to be govern'd: from whence probably that which by *St. Paul* is call'd *θεσ διαταγή*, God's Ordinance, as to Government in general, is by *St. Peter 2. 13.* call'd *νόμος ἀνθρώπων*, a Human Constitution, as to the particular Species; for so the supreme Power is call'd, whether there be a King or no. As for the Patriarchal Constitution, and a Lineal Descent by proximity of Blood, it is so near to an impossibility of finding out the right Heir to the first Father of a People, that we must let that alone for ever. And as for

Species of Government is by mutual Agreement.

Grotius's
Opinion,

Conquest, *Grotius*, l. 1. c. 4. Sect. 16. says, "He that doth usurp a Government, and afterward enters not into a Compact with the People (as it is evident *William the Conqueror* did, who also pretended a Right prior to his Conquest) "nor has any Trust repos'd in him, but his Possession is maintain'd by Force; the Right of War doth in this Case still continue, so that it is lawful in all things to deal with him as with an Enemy. And l. 1. c. 4. Sect. 7. N. 3. It is to be observ'd, saith *Grotius*, That Men did not at first unite in civil Communities by any Command from God, but voluntarily, and from the experience which they had, that private Families were unable to resist any foreign Force; from hence grew Civil Power, which *St. Peter* therefore calls a *Human Ordinance*, tho elsewhere it is call'd a *Divine Ordinance*, because God did approve thereof, as futable and convenient for the Good of Mankind; but when God approves of a Human Law, he must be suppos'd to do it as Human, and after a human manner.

Enquiry in-
to the Rise
and Nature
of our Go-
vernment.

Concerning the Rise of our Government, which is the second Query, I shall search no farther than the Reign of *William* call'd the Conqueror, who in truth disclaim'd that Title, pretending a Right to succeed by a Grant from King *Edward*, and an Oath of *Harold*, who swore to preserve the Kingdom for him after the death of *Edward*. King *Edward* being dead, many of the Nobles invited *William* to take the Crown; but *Harold*, contrary to his Oath, assumes it: Whereupon *William* resolves to vindicate his Title by the Sword, the Pope sending him a consecrated Banner, and approving his Title; and shortly after his landing he slays *Harold* in Battel, and marching to *London*, is proclaim'd King, and crown'd by *Aldred* Archbishop, taking the Coronation Oath, which was injoyn'd by King *Edward*, and is the same in substance with that which is still administred: and in the Title of his Laws made in the fourth Year of his Reign, he styles himself Heir and Cousin to *Edward* the Confessor, (*Spelman's Councils*, p. 619.) and confirm'd all *St. Edward's* Laws. And his Son *Henry* declares his Father's Title thus, *Qui Eduardo regi Hereditario Jure successit*, *Selden ad Eadmerum*, p. 211. *Henry* the First, his Son, abolish'd the *Norman* Laws which his Father added, as *Coke* in the Proem to l. 3. of his Reports. Afterwards the Barons threatned King *John* to seize his Castles, if he would not confirm their Laws, which they did until they got the *Magna Charta*.

Our Go-
vernment
no Absolute
Monarchy.

It appears then that our Government is not an Absolute Monarchy, such as that of the *Turks*, and the antient Emperors of *Rome*, whose Wills declar'd by Edicts had the Force of Laws: as is evident from, 1. The manner of making Laws, the Legislative Power being divided between Prince and People: And, 2. The mutual Oaths and Obligations that pass between the Prince and People, and because (a) no Laws oblige the Subject, but what are agreed on by Prince and People in Parliament. 3. Nor can any Mony without their Consent be rais'd. And whatever Laws have been thus made in former Ages, and stand unrepeal'd, do respectively oblige both Prince and People in future Ages. So that when Laws are thus made, it is not in the power of Prince or People to annul them, but by the same Authority by which they were made: by which it appears, that the Legislative Power, which is a chief Property of Sovereignty, is not solely in the Prince; yet may he pardon the Persons of some Offenders, and remit the Penalties in some Cases, wherein *Salus Populi Suprema Lex*; which Maxim, as it leaves in the Prince a Power of dispensing with the rigor of the Law, as he shall see it expedient for the publick Good, so it leaves also in the Subject a liberty upon just Occasions (as in cases of great Exigency, and for preventing such Hazards and Inconveniences as could not be foreseen or prevented, and might prove of ill consequence to the Publick) to do otherwise than the Letter of the Law requireth. See *Sanderson's Case of the Liturgy*, P. 170. for which he gives this Reason, viz. It may well be presum'd that the Law-giver, who is bound in all his Laws to intend the safety of the Publick, and of every Member thereof in his due proportion, hath no intention by the observation of any particular Law, to oblige any Person who is a Member of the Publick to his destruction or ruin, when the common Good is not answerably promoted thereby. Upon which ground it is generally resolv'd by *Casuists*, that no Constitution, merely humane, can lay such Obligation on the Conscience of the Subject, but that he may, according to the Exigency of Circumstances, do otherwise than the Constitution requireth. This leads me to the Third Query.

(a) Quis vulgus eligerit.

The *Third Query*, which is concerning the Obligation of the Coronation Oath, and the Oaths taken by the Subjects; of which I shall speak jointly, because the Obligations are relative and reciprocal. *The Obligation of the Oaths taken by King and Subjects.*

There cannot be a more solemn Oath than that which is taken by our Princes at their Coronation, to which the Prince is oblig'd as to the Matter of it before his Coronation, as well as the Subject is bound to the Prince tho not crown'd; the Prince is our natural and liege Lord, as we are his natural and liege Subjects, *i. e.* according to Law.

The Oath, as I find it taken by King Charles the First of blessed Memory, is this:

Quest. Sir, Will you grant and keep, and by your Oath confirm to the People of England, the Laws and Customs, to them granted by the Kings of England, your lawful and religious Predecessors, and namely the Laws, Customs and Franchises granted to the Clergy by the glorious King St. Edward your Predecessor, or according to the Laws of God, the true Profession of the Gospel establish'd in this Kingdom, and agreeable to the Prerogative of the Kings thereof, and the antient Customs of this Realm? *K. Ch. I. Coronation Oath.*

Ans. I grant and promise to keep them.

Quest. Sir, Will you keep Peace and Godly Agreement intirely, according to your Power, both to God and Holy Church, the Clergy and People?

Ans. I will keep it.

Quest. Sir, Will you, to your power, cause Law, Justice, and Discretion, in Mercy and Truth, to be executed in all your Kingdoms?

Ans. I will.

Quest. Will you grant to hold and keep the Laws and rightful Customs, which the Commonalty of this your Kingdom have? And will you defend and uphold them to the Honour of God, so much as in you lieth?

Ans. I grant and promise so to do.

Our Lord the King, we beseech you to pardon and grant, and preserve to us, and to the Churches committed to our Charge, all Canonical Privileges, and due Law and Justice. And that you would protect and defend us, as every good King ought to be a Protector and Defender of the Bishops and Churches under his Government.

Ans. With a willing and devout Heart I promise and grant my part, and that I will preserve and maintain to you, and the Churches committed to your charge, all Canonical Privileges, and due Law and Justice; and that I will be your Protector and Defender to my Power, by the Assistance of God, as every good King in his Kingdom by right ought to protect and defend the Bishops and Churches under his government.

Then the King ariseth, and is led to the Communion Table, where he takes a solemn Oath, in sight of all the People, to observe the Premises; and laying his hand on the Book, saith, *The things which I have before promis'd I shall perform and keep. So help me God, and the Contents of this Book.*

Now an Oath being a high Act of Religion, and call'd the Oath of God, invoking him as a Witness and Surety for the performance, and a Revenger in case of Transgression, ought not (as Medicines) to be taken but in cases of Necessity, with good Advice, and great Sincerity, especially in such solemn and publick Oaths, the violation whereof the very Heathen do abhor. And what the Laws of the Church and People are, *Magna Charta*, the *Petition of Right*, and the *Statutes of Parliament* do shew; to all which the Prince is sworn, and thereupon the People declare their Acceptance of him, and some Subjects of all Orders do him immediate Homage in the Name of the rest. And by the Laws of God and Men, those things that are solemnly sworn to, on exprefs Conditions mutually agreed on, do equally oblige both Parties.

The Subjects Obligation is exprefs'd in several Oaths, the most considerable are those of Supremacy and Allegiance: from each of which the Person sworn is under a double Obligation; first and primarily to the matter of the Oath which concerns both Prince and People, which they are sworn to defend; and secondarily, to the Persons specify'd in the Oath, whose Interest it is to defend the same, *viz. the King, his Heirs and Successors.* The Oath of Supremacy was fram'd to assert the King's Supremacy, in opposition to the Usurpation of the Pope; wherein we promise to bear Faith and true Allegiance to the King, his Heirs and lawful Successors, and to our power to assist and defend all Jurisdictions, Privileges, &c. granted or belonging to the King's Highness, his Heirs and Successors, or united and annexed to the Imperial Crown of *Oath of Supremacy and Allegiance.*

of this Realm. This Oath was brought into Form by King Henry VIII. And the Parliament then declar'd, That it was a Declaration of the antient Right of the Crown; which doth not at all exclude the Right of the Subject, because the admission of that Usurpation would certainly bring the Subject under the Yoke of Popery and Slavery, which by this Oath they are bound to their power to resist, as they did in the Reign of King John, and several other Kings, of which hereafter.

In the Oath of Allegiance we swear, to bear Faith and true Allegiance to his Majesty, his Heirs and Successors; and him and them will defend to the utmost of our power, against all Conspiracies and Attempts whatsoever made against his or their Persons: And do our best endeavour to disclose to his Majesty, his Heirs and Successors, all Treasons and traitorous Conspiracies, which we shall know or hear of to be against him or any of them. And we also swear, That neither the Pope of himself, nor by any other means with any other, hath power to depose the King, or annoy his Countries; or to give Licence to any of them to bear Arms, to raise Tumults, or to offer any violence or hurt to his Majesty's Person, State or Government, or to any of his Majesty's Subjects within his Majesty's Dominions.

Intention
of those
Oaths.

Concerning these Oaths it is observable, First, That they were both intended to preserve the King and his Subjects from the Usurpations of the Pope and Church of Rome, contrary to their antient Rights, which were oppos'd and resisted, not only by many of our Kings who were themselves Papists, but by the Nobles and Commons when their King would have submitted to them. And if they who were Papists did so resolutely defend themselves against Popish Usurpations of a pecuniary and temporal Concern, much more ought we, when not only our Liberties, but our whole Religion, as Protestants, is invaded. Secondly, That by these Oaths we are bound to defend them to the utmost of our power against all such as shall offer any Violence or Hurt to his Majesty's Person, State and Government, or to any of his Majesty's Subjects. Thirdly, Because it is mention'd in the Oath, that these Privileges were granted or annex'd to the Crown, viz. by the first Constitution agreed on by Prince and People. Fourthly, Because 'tis said, that neither the Pope of himself, nor by any other means with any other (which may infer, altho the King himself should join with him, as King John did) may do violence or hurt to the State and Government, or to any of his Majesty's Subjects. From whence I infer, that the Subjects were primarily oblig'd to the matter of the Oath, and then to the King's Person, because the King in Person may join with the Pope to do violence and hurt to the Subjects; in which case the Oath binds the Subjects to the utmost of their power to defend and maintain their Rights and Privileges, which for their better security were granted or annexed to the Crown, not for their utter subversion: and it is incredible that any Prince would oblige his Subjects by Oath, to which he himself hath sworn also, or that he would expect the performance of it from his Subjects, which he himself with all his Power is resolv'd to vacate and destroy. And in such a case we must recur to the Law and Dictates of Nature, for preservation of our selves and the common welfare, against unfaithful and cruel Men: for there is such a Law prior and paramount to any particular Constitution, and for the end whereof all Government was instituted; this is always accounted *inculcata tutela*, so natural and necessary, that it cannot be annul'd by any Civil Constitution. *Et qui se cum defendere possit occidi permittit, illum damnari posse non aliter ac si seipsum occidisset*, he is a *Felo de se*, guilty of Self-murder. And doubtless if it had been propos'd to the Law-makers, whether they intended to oblige themselves to assist and defend the King's Person in case he should join with the Pope and French King to set up the Inquisition, and bring in French Dragoons, they would never have enacted such a Law; and therefore we may presume they never intended such Obligations. Fifthly, That we are bound to preserve them to the King and to his Heirs and Successors, and him and them to defend to the utmost of our power against all Conspiracies and Attempts whatsoever, which shall be made against his or their Persons, their Crown or Dignity. Supposing then there be an Attempt made to deprive the Heir apparent of the Right of Succession, there is an Obligation on the Subjects not only to disclose and make it known to such Heir and Successor, but him and them to defend to the utmost of our power. To this purpose Bishop Taylor says, second Vol. p. 137. *Where the Right of Succession is in a Family by Law or Time immemorial, no Prince can prejudice his Heir, or the People committed to him; for it cannot without consent be alienated, because Persons cannot be dispos'd of as Slaves or Beasts: so that in this (and some other Cases) the King loseth his Authority, and then the force of the Obligation ceaseth also.* And how good an Opinion the antient Clergy and others had of the Peers and People that fought in defence of

Magna

Magna Charta, and against the Usurpations of the Popes, may appear by the Writers of that and the succeeding Ages concerning *Simon Montfort*. The Chronicle of *Meilrois*, lately printed by the Bishop of Oxford, p. 231. says, *Occubuit cum multis ex magnatibus Anglicis qui venerant ad bellum ut certarent pro justitiâ Angliæ, cujus postmodum justitiæ infallibile signum fuit crebra miracula exhibita circa Hugonem summum Angliæ dispensatorem & Simonem de Montfort, qui occubuerunt pro justitiâ decertantes, & ideo nonnulli eorum meruerunt à deo miraculorum exhibitionem*, of which Miracles they give divers instances. And long after these Writers, who liv'd in the time of the Barons Wars, *Polidore Virgil*, who liv'd in the days of Henry VIII. gives this Testimony to *Simon de Montfort*, p. 317. of the *Basil Edition*, *In hæsit hominum mentibus constans opinio, hunc Simonem de Montfort qui ob patriam & jusjurandum* (for it seems they were under the like Oaths) *vitam amisisset interisse Martyrem, id quod & vitæ sanctitas non patitur negandum, jam tum fuere qui ejus memoriam ut Dei cujuspiam colere ceperunt, compluresque id fecissent si Regis iram non pertinuissent*. For if the Prince do evidently violate not only the Coronation-Oath, but act contrary to the tenor of those of Supremacy and Allegiance, and actually subject the People to that Jurisdiction and Usurpation against which they are sworn, what is the extent of that Clause in the Oath of Supremacy, viz. *To our power to assist and defend all Jurisdictions, Privileges, and Authorities granted or belonging to the King's Highness, &c?* Doubtless they that granted them, and by Oath are bound to assist and defend them being granted, may oppose such as attempt the destruction of them, when not only the King's Prerogative, but the Peoples Religion, their Laws, and Liberties are assaulted, and in a way to be utterly ruin'd: And Treason may be committed against the Government as well as against the King; and also the King's Eldest Son. It is well known how resolutely our Ancestors in the darkest times of Popery (being themselves Papists) did defend the Nation against the Incroachments of the Church of Rome, when their Kings would have parted with this Right, which they affirm'd he neither could or should do, and in defence of them they were prodigal of their Lives.

Simon of Montfort accounted a Saint, tho fighting against the King.

Princes violating their Coronation-Oath to be opposed.

Query. Whether, these Premises being undeniable, the Subjects who according to their Oaths did timely endeavour (the case being otherwise desperate) to vindicate as well the Right of the Crown to the King, his Heirs and Successors, as their own Religion and Liberties, did not act according to their Oaths and Duties, not by resisting their Prince, but by defending the Succession and themselves against such Instruments as acted contrary to the Tenor of those Oaths. If Judges, Juries, &c. had perform'd in their several places as the Law and their Oaths oblig'd them, the King might have kept his Throne. We have a Maxim in Law, *That the King can do no wrong*, because he is suppos'd to do all things by his Ministers, and they to act all according to the Law: But when a King shall chuse such Ministers as will act against the Laws, and defend them therein, there cannot be a greater wrong done to the Subject.

Query.

§. In answer to your Fifth *Query*, which concerns the mutual Obligations between the Prince and the People, by virtue of these Oaths and the Declaration hereafter mention'd: It is to be consider'd (as Bishop *Sanderson* says in the Case of the Engagement, p. 90.) *That Allegiance is such a Duty, as every Subject, under what form of Government soever, by the Law of Nature oweth to his Country (primarily) and consequently to the Sovereign Power by which that Commonwealth is governed (who is Caput Communitatis) as is necessary for the preservation of the whole Body*. And speaking of the Obligation of Laws (which will hold also in the case of Oaths) *That if the intention of the Law-giver should be understood precisely of that particular, actual, and immediate intention of the Law-giver in making a particular Law, it will not hold true in all cases; but there is to be suppos'd in the Law-giver a more general, habituate, and ultimate Intention, of a more excellent and transcendent Nature than the former, which is to have an influence into and an over-ruling Power over all Laws, viz. an intention by the Laws to procure and promote the publick Good*. The former intention bindeth where it is subservient to the latter, or consistent with it; and consequently bindeth in ordinary Cases, and in orderly Times. But where the Observation of the Law, by reason of the conjuncture of Circumstances, or the iniquity of Times (Contingences which no Law-giver could either certainly foresee, or if foreseen, could sufficiently provide against) would rather be prejudicial than advantageous to the Publick; or is manifestly attended with more inconveniences and sad consequences to the Observers, than all the imaginable good that can redound to the Publick thereby, can in any reasonable measure countervail: in such case the Law obligeth not but according to the later and

Examination of the Obligation of Oaths to the Prince.

and more general intention only. Even as in the Operations of Nature, particular Agents do move ordinarily according to the proper and particular inclinations; yet upon some occasions, and to serve the ends and intentions of Universal Nature (for the avoiding of something which Nature abhorreth) they are sometimes carry'd with motions quite contrary to their particular Natures; as the Air to descend, and the Water to ascend, for the avoiding of vacuity.

Bp Taylor's Opinion of the Coronation-Oath.

Concerning the Coronation-Oath, I shall add here what Bishop Taylor l. 3. p. 144. says, That a Prince's swearing to govern by Laws is very antient; of which he gives divers instances, and says, Kings are bound by natural Justice and Equity, without Oaths, to do so; for they are not Kings unless they govern, and they cannot expect Obedience unless they tell the measures by which they will be obey'd: and these measures cannot be any thing but Laws, which are the will of the Prince; which when publish'd to the People, then they are Laws. If Kings be not bound to govern the People by Laws, why are they made? By what else can they be governed? By the will of the Prince? The Laws are so, which are publish'd that wise men may walk by them, and that Princes may not govern as Fools or Lions, by chance or violence, and unreasonable passions: *Ea quæ placuerunt servanda*, saith the Law, l. 1. de Pactis. If this had not been the will of the Prince, it had been no Law, but being his will let it be stood to. And p. 143. Whatsoever the Prince hath sworn to, to all that he is oblig'd not only as a single Person, but as a King; for tho he be above the Laws, yet is he not above himself, nor above his Oath, because he is under God, and he cannot dispense with his Oath and Promises in those cases in which he is bound: Altho the King be above the Laws, that is, in cases extraordinary, and matters of Penalties, yet is he so under all the Laws of the Kingdom to which he hath sworn, that altho he cannot be punish'd by them, yet he sins if he breaks them. And p. 149. he says, The Prerogative of Kings is by Law, and Kings are so far above their Laws, as the Laws themselves have given them leave. And p. 143. The great Laws of the Kingdom do oblige all Princes, tho they be supreme: The Laws of the Medes and Persians were above their Princes, as appears in Daniel; and such are the Golden Bull of the Empire, the Salic and Pragmatical Sanctions in France, the Magna Charta and Petition of Right in England. That great Emperour C. de Legibus l. 4. *Digna vox est Majestatis regnantis, legibus allegatum se principem profiteri*: A Sentence worthy of the Majesty of a Prince, to profess himself ty'd to his Laws.

Pareto legi quisquis legem sanxeris, was the wise saying of Pittacus. And the distinction of the Directive Power of the Laws and the Coercive, is futile; for a Directive Power is no Power, and a Law doth not only direct but oblige.

Theodosius owned his Power to be bound by Law.

Thus the Emperor Theodosius, *Tantum mihi licet quantum & legibus licet*. Augustin l. 4. c. 4. de Civitate Dei, *Quid sunt Regna nisi magna latrocinia, remota justitia quæ est legum effectus?* The intention of the Coronation-Oath is to oblige the King not to invade the Rights of the Subjects and the Establish'd Clergy; and it is sworn to the Bishops by whom the Oath is administer'd. And St. Aug. Epist. 225. says, *Expectationem eorum quibus juratur quisquis decipit, non potest non esse perjurus*: Whoever deceives the expectation of him to whom he hath sworn, is guilty of Perjury. It may be said that by the Church and Bishops the King might intend such as were of the Roman Communion; but the express letter of the Oath is contrary, viz. With a willing and devout heart I promise and grant that I will preserve and maintain to you, and the Churches committed to your Charge, all Canonical Privileges, and due Law and Justice; and that I will be your Protector to my Power, by the assistance of God, &c. To this Evasion St. Augustine gives a check, Epist. 224. *Quacunque arte verborum quis juret, Deus tamen qui Conscientiæ testis est ita hoc accipit sicut ille cui juratur intelligit*: By whatever art of words any one sweareth, God who is Witness of the Conscience, doth so take it as he to whom he sweareth doth understand it. And Bishop Sanderson blackneth such a Practice with the Sin of Perjury: *Alterum perjurii Genus est ubi recte juraveris non sincere agere, sed novo aliquo excogitato commento vim juramenti declinare & evadere*, Prælect. 6. de Juramento s. 7. Such a Practice is contrary to the Qualifications of an Oath, Jer. 4. 2. Thou shalt swear, The Lord liveth in Truth, in Judgment, and in Righteousness. And in a Prince that so sweareth, the Nation shall bless themselves, and in him shall they glory. But how can they hope that he will punish Perjury in others, that is guilty of it himself? To this I shall only add what Grotius says, l. 2. c. 14. s. 4. de Jure belli, That Promises fully made and accepted, do naturally transfer a Right, and this holds as well in Kings as in private men. Their Opinions therefore that hold that a King promising without a good cause, is not oblig'd, are not to be allow'd. It was nobly done of Henry the First, who when the Pope offer'd to absolve him of his Oath, answer'd, *Who will ever trust*

trust another, when they see by my example that an Absolution can make void the highest Bond of Faith? See Eadmer's Hist. p. 126.

And where there are mutual Stipulations between Parties, with Conditions expressed, if either Party fail in performing the Condition sworn to on his part, the other Party is not bound to perform what he was sworn to: So Bishop Sanderson, ^{Mutual Stipulations how binding.} p. 177. *de Jurament.* If Caius swear to give Titius an hundred Pounds on condition that Titius assign to him such a parcel of Ground at a certain day, which Titius refuseth to do, Caius is disobliged.

And p. 216. *De Conf.* A Subject is not ordinarily bound to obey a Law that is very grievous, to the certain ruin and destruction of himself and Family, unless some great Necessity or publick Danger do appear. And p. 202. he shews, That when the subject matter of the Oath ceaseth, the Obligation also ceaseth; as when the state of Affairs between the time of swearing and of performing the Oath is so chang'd, that if he that swore could have foreseen such a Change, he would not have sworn: Thus if a Father swear never to alter his Will wherein he had made his Son to be his Heir, and afterward his Son attempts to poison him, the Father may appoint another Heir notwithstanding his Oath. The reason is, because the root of the Obligation, which gave occasion to the Oath, being taken away, the Obligation also is taken away. And it is a Maxim in the Civil Law, *Cessante Causa cessat Lex.* Grotius l. 2. c. 5. n. 17. thinks no question, but a King by a long continued Permission may warrant a People to recover their Liberty, on a presumption that the King hath left it to them, Grot. l. 12. c. 4. n. 14.

Bishop Andrews gives us these short, but useful Rules concerning Oaths: 1. If ^{Bp Andrews Opinion of Oaths.} what we swear to be simply evil, the Rule is, *Ne sit Sacramentum pietatis vinculum impietatis.* 2. If it hinder a greater Good, then *ne sit Sacramentum pietatis impedimentum pietatis.* 3. If the Oath be simply made, yet it doth subicere civili Intellectui; as Jer. 18. 7, 8. where God speaks conditionally of plucking up and destroying a Nation, *If that Nation turn from their evil ways, I will repent of the evil, &c.* The Conditions may exclude the Event, and the Oath remain good; so that if the Prince to whom we swear do wholly pervert the end of the Oath, and require us to act contrary to the ends for which we swear, we are not oblig'd to obey him contrary to our Oaths.

These things premis'd, will lead to a full understanding of the Declaration requir'd in the Act for Uniformity, viz. *I do declare that it is not lawful upon any pretence whatsoever, to take Arms against the King, &c. i. e.* This is only a declaration of a man's private Judgment, according to the best information which he hath at present; nor can any man suppose that the Position which is indefinite can reach to every Kingdom, and therefore may be false as to some Kingdoms, viz. that of Poland, where in some cases Resistance is permitted, and in our Nation where the Laws are made the measure of the King's power; because, as Baldus *Consil.* 1. 245. says, *Clausula de plenitudine potestatis semper intelligenda est de potestate bona & laudabili.*

2ly, It may be dubious (or rather out of doubt) because it is possible for a King ^{In what Cases Resistance allowable.} *exuere Regis personam*, as in case of Resignation, Desertion or great Distraction; such as the late King of Portugal, who in his Madness slew divers Subjects: and in such cases Nature dictates that we may *vim vi repellere*, as David defended himself against Saul. And the deposing of the King of Portugal was approv'd, as by other Nations, so by the English particularly.

So that this Declaration, tho in general terms, may admit of exception (as other such Declarations do, as when I declare according to the fourth Commandment, *That it is not lawful to do any manner of work on the Sabbath-day*) yet *Periculum vitæ tollit Sabbatum*, and such cases of necessity may happen as may make some kind of Work lawful to be done on that day. And it is a good Rule in Law and Equity, that *Omnia dicta quantumvis universaliter equitatem admittunt interpretationem*: So when I declare according to the Apostle, *That Children ought to obey their Parents in all things*; the exception against things sinful is understood. And if a King in his Lunacy, committing several acts for the destruction of his innocent Subjects, may be restrained, so may such a Prince, *Qui sobrius ad evertendam rempublicam accedit.* If our Promise confirm'd by Oath, be grounded on a Condition whereto it related, that Condition not being perform'd, makes the Promise void. L. 2. c. 13. n. 16. Grot. *de J. Belli.* Or if the quality of the Person cease, the Oath sworn to that Person, in

relation to his Quality, doth cease also. *L. 2. c. 13. n. 18.* Every Contract, tho sworn, is to be understood with this reserv'd condition, That Matters continue in the same state, but not if they be chang'd. *A wise Man, saith Seneca, changeth not his Resolution, all things continuing as they were at the time that he made it; nor can he be said to repent, because at that time no better Counsel could be follow'd than that he resolv'd on. L. 2. c. 16. n. 27. Eadem mihi omnia præsta & idem sum.*

Not always
a traito-
rous Posi-
tion to take
up Arms a-
gainst the
King.

3ly. Nor can a Man declare it to be a traitorous Position in some cases (tho he himself do abhor it in other cases) to take up Arms by the King's Authority against his Person, or against those that are commission'd by him; because such Commissions may be granted to Persons that by Law are disabled to take such Commissions; or the Commissions may be forg'd, as in the late *Irish* Rebellion: or they may be extorted from the King being under the power of his Enemies, and in fear of his Life; such was the Case of *Edward* the 5th, when *Richard* Duke of *Glocester* seiz'd on his Person, raising a War, and granting Commissions in the King's Name. Suppose that his Mother, *Queen Elizabeth*, who had then the Broad Seal brought to her by the then Arch bishop of *York*, had rais'd another Army to free the King from the Usurper's Power, could this either justify the Duke and his Party, or condemn the Queen and her Adherents?

Commissi-
ons to Pa-
pists null
and void.

Self-de-
fence law-
ful.

And what hath happen'd may happen again: As in the case of *Ireland*, where Commissions are granted to Papists who are unqualified; Query, Whether it may not be lawful for the Protestants of that Nation to defend by Arms such as by those Commissions assault them, for the destruction of their Religion, Laws and Liberties? So that notwithstanding this Declaration, if there be Laws and Oaths, and certain contingent Cases, whereof the Subject that makes the Declaration is ignorant, which do allow a defence of the Crown, Religion, Laws and Liberties; such Defence may be lawful notwithstanding the Declaration, as in case it should happen that the King wholly deserts and renounceth the Government. Which leads me to answer your *Sixth Query*, Whether, it being granted that the King was studiously bent on the Alteration and Subversion of the Government establish'd in Church and State, it does amount to a Renunciation of the Government?

After that *Grotius* had urg'd all the Arguments he thought of for Non-resistance, he thought fit to admonish his Reader of something, lest he should think that he had offended against that Law of Non-resistance, when indeed he had not; and the Admonitions are these.

Grotius a-
bout Non-
resistance.

First, Such Persons as are under Compact with the People, if they offend against the Laws, may be restrain'd by force: And if a King abjure his Kingdom and desert it, all things are lawful against him as against a private Person. For which he quotes *Barclay*, who was the greatest assertor of Monarchy, who says, If a King alienate his Kingdom, or subjects it to another, he loseth it: *Grotius* his words are, *Si Rex reip̄sa tradere regnum aut subicere moliatur, quin ei resisti in hoc possit non dubito; nam aliud est imperium, aliud habendi modus, qui ne mutetur obstare potest populus, id enim sub imperio comprehensum non est.* *Seneca* l. 3. *Controversi.* *Et si parendum in omnibus patri, in eo non parendum in quo efficitur ut non sit pater.* And *Barclay* says, A Kingdom may be lost, if a King be carried on to the destruction of the People; *Consistere enim non potest voluntas imperandi & voluntas perdendi.*

Again, If the King have one part of the Empire, and the People another, the King attempting to destroy the Peoples Right, a just Force may be oppos'd; and this (saith he) I think to have place, altho it be affirm'd, that the Power of War (or Militia) is in the King; for that is to be understood of Foreign War, for he that hath Right, hath Power to defend that Right. *Grotius* on *Hester* 8. 11. concerning the Edict which *Mordecai* procur'd for the Jews to defend themselves, says, *Jus natura munit auctoritate Regiâ, supponit they might have done it by the Law of Nature.*

And on those words of his, *Si Rex hostili animo*, he hath this Note: *Jo. Major* in 4. Sentent. says, *Non posse populum à se abdicare potestatem destituendi Principis, si in destructionem vergeret.*

Bp Bilson's
Opinion.

So *Bilson*, p. 520. If a Prince submit his Kingdom to a Foreigner, or change the Form of the Common-weal, or neglecting the Laws establish'd by common Consent, to execute his own Pleasure, the Lords and Commons may join and defend the Laws establish'd. From whence I argue thus, That Prince who studiously alters the Form and Constitution of his Kingdom, as suppose from a mix'd and limited Monarchy to an absolute, destroys the Species of Government, *qua talis*, and so loseth it; for the Introduction of the new Form, is the Destruction of the old: But a King that declares (and acts accordingly) that he will govern absolutely, and requires his Subjects to

acknowledg

acknowledg his absolute Power, doth *ipso facto* destroy that Species of a limited Monarchy which he had, therefore he loseth that Monarchy. And what was acted in Scotland, and intended to be acted in England, is sufficiently known, and a full confirmation of this Argument. And 'tis the Judgment of *Grotius*, that he that openly in word or deed professeth himself an Enemy to the whole Nation (and the major and better part may carry that denomination) is in that very act presum'd to abjure and renounce the Government of it; for if such a Prince should proceed to execute all his ruining Designs, he would leave none of his People over whom he might reign.

To these I shall add another Argument, *viz.* That a Prince or People may yield up themselves to a prevailing Power, as the Men of *Capua* and *Collatia* did to the Romans, and so lost all their Authority. And that our King did so, may appear by disbanding his Army on the approach of the present King, and submitting himself to his Guards. And as King *Agripa* said to the Jews, *Intempestivum est nunc libertatem concupiscere, olim ne ea amitteretur certatum oportuit*: He ought to have defended his Dominion while he had it, it is too late to require what by dedition and dereliction he hath given up.

4. There are in Laws, as well as in Oaths, *Casus omissi*, and tacit Exceptions, which the greatest prudence of Men could neither foresee, nor sufficiently prevent: nor indeed were it a point of Prudence so much as to name them, being things odious or rarely contingent, as the case of a King's being Lunatick, or otherwise incapable of the Administration of his Office, which our Laws have not provided against. Bishop *Sanderson*, p. 41. *de Juramento*, mentioneth these four: *Si Deus permiserit, quoad licet, salva potestate Superioris Rebus sic stantibus*. Tacit Conditions in all Oaths and Laws.

1. If God permit, as in the 4th of St. James.

So that if *Caius* swears to *Titius*, to pay him at London on the Calends of January, a Sum of Money which he oweth him, but is at that time confin'd to his Bed by a grievous Disease, or in his Journey is rob'd of his Money by Thieves, in this case he is not guilty of Perjury, because *Rei impossibili nulla est obligatio*, there is no obligation to a thing impossible; and because all things are subject to the Divine Will and Providence: therefore in every Oath, by a common Law, this Clause is to be understood, Unless God shall otherwise dispose. For this he quotes the Gloss. *ad quaest. 22. c. 2. B. Paulus: In omni Voto vel Sacramento intelliguntur hujusmodi generales conditiones, si Deus voluerit, si vivero, si potero*.

2. Another Condition to be understood is, if it be lawful, because there is no Obligation to unlawful things; as if a Man swear to observe all the Statutes and Customs of a Corporation, he is bound to observe such only as are lawful and honest. Lawfulness is suppos'd.

A 3d Condition is a *Salvo* to the Power of a Superior, as when a Son swears to do a thing that is lawful in it self; but his Father being ignorant of the matter, commands another thing, the doing whereof hinders the Son from performing what he had sworn: the Son is not bound by that Oath, because by the Divine Law he is bound to obey the Command of his Father; the reason is, because the Act of one Man ought not to prejudice the Right of another. Salvo jure superioris.

The 4th Condition is, If things continue in the same state wherein they were; as when a Man swears to return a Sword that he borrow'd, and the Person of whom it was borrow'd grows furiously mad, he is not bound to restore it. See *Seneca*, l. 4. *de Ben. c. 35. Tum fidem fallam, si omnia eadem sint me promittente; si mutantur fidem meam liberat*. Circumstances altered.

It is highly reasonable to presume that such Cases may happen, which if the Lawgivers could have foreseen, they would not have made or pass'd into a Law; and therefore it may be presum'd they will not exact Obedience to it.

Dr. Sanderson, p. 166. *de Consc. When the Law forbids that to be done which the Subject cannot omit without sin, or commands that to be done which he cannot do without sin, such a Law doth not bind; for, Rei illicitae nulla est obligatio*; as when a Prince commands the Worship of a false God, *Prior obligatio praejudicat posteriori*. The Obligation to preserve the Common Welfare is prior to our Allegiance to the present Governor. Dr. Sanderson.

Falkner in his Book of *Christian Loyalty*, speaks as much for the unlawfulness of Subjects taking up Arms against the King as can be said, p. 372, &c. yet p. 542. he proposeth the case, *Whether if a Supreme Governor should, according to his own Pleasure, and contrary to the establish'd Laws and his Subjects Property, actually engage upon* Mr. Falkner.

Defensive
Arms ju-
stify'd.

the destroying and ruining a considerable part of his People, they might not defend themselves by taking Arms. And he instanceth in the Paris Massacre, where about 100000 were slain in cold Blood, most of which were innocent Persons, never accus'd or try'd by Law, which he says was such a Cruelty as can scarce be parallel'd under Mahometism: And he grants, that if ever such a case should happen, it would have great Difficulties. Grotius (saith he) thinks, that in this utmost extremity, the use of such defence, ultimo necessitatis præsidio, as a last refuge, is not to be condemn'd, provided the care of the common Good be preserv'd. And he seems to grant that this may be true upon this ground, viz. that such attempts of ruining do ipso facto include a disclaiming the governing those Persons as Subjects (i. e. according to Law) and consequently of being their Prince or King; and so the Expressions in the Declaration, That it is not lawful on any Pretence whatsoever, &c. would be secur'd. Now, p. 529. he quotes Barclay, l. 3. c. 16. p. 212. saying, That a Prince seeking the ruin of his People, is no longer King: *Se omni dominatu & principatu exuit, atque ipso jure sine ipso facto Rex esse desit*, l. 6. c. 23. With whom he joins Grotius, l. 1. c. 4. n. 11. *Si Rex vere hostili animo in exitium totius populi feratur*, to resist such a one is not to resist a Sovereign King, but him who ceaseth to be such; *Consistere simul non possunt voluntas imperandi & voluntas perdendi, quare qui se hostem totius populi profitetur eo ipso abdicat regnum*. And, p. 531. Falkner says, On yielding such Suppositions (to be true) I shall grant the Answer given to be true. To this purpose speaks Grotius, l. 1. c. 4. §. 7. n. 2. treating of Resistance, This Law seems to depend on the Intention of those who first entred into Civil Society, from whom the Right of governing is transfer'd. Now if such had been ask'd, Whether they intended to impose a Yoke equal to Death upon all that should resist the Tyrannies of a superior Magistrate on any account whatsoever, I know not how they could willingly answer in the affirmative; for what in this case Charity would recommend, that may be receiv'd as a Law.

7. But another Query is, Whether the King, being destitute of the Assistance of his Subjects, leaving the Land in confusion, two Armies being in its Bowels, hath vacated the Government, and so it is necessary that some other, to avoid Anarchy and Confusion, be appointed to succeed?

R. J. de-
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Govern-
ment before
he left the
Kingdom.

To this I answer: 1. That the King, even before his leaving the Kingdom, had deserted the Government; for it is undeniably affirm'd by Civilians, whose practice is agreeable, That *nolle habere*, and *renunciare*, are terms equivalent: as when a Man conveyeth an Estate with a Charge and Incumbrance upon it, he that will not accept of the Estate with the Incumbrance and Charge, tho he would gladly enjoy the Estate, doth, in the judgment of the Law, and in all Equity, renounce his Title to it; for he must accept it *modo & forma debitis*, or not at all. Whence I thus ground my Argument, He that is not willing to hold the Government of England, as constituted with certain Limitations and Conditions annexed, doth constructively renounce it: But the late King was not willing to accept or hold the English Government as constituted and limited; Ergo, the Sequel of the Major is clear, because *Onus transit cum emolumento*, and both Law and Equity do preclude a Right to the one without the other; an entrance into the Government without the observance of the Condition, *modo & forma*, is so far from giving a Right to it, that it is a Renunciation of it. And the Minor is as clear, because it is not possible for a Popish Prince, such as ours was, to be willing to govern the English Nation without one or more Popish Priests, without many Papists in Office, Civil and Military, and without subjection to the Pope of Rome, and holding correspondence with him. So that if it should be demanded of the King (which yet needs not, he having sufficiently declar'd the contrary) whether he would accept of the Government, as by the Laws and Statutes against Papists is provided, his refusal is a Renunciation. And of this we have had plain demonstration: The King declaring to the Scots, that he had an Absolute Power, and practising the same in England, by entertaining the Pope's Nuncio, setting up of Popish Bishops, imprisoning the Protestant Bishops, entertaining Jesuits and Papists in his Privy Council, and chief Offices, Military and Civil; the Charters generally taken away; Magdalen College emptied of its Students to make way for Papists, these were manifest Indications of the subversion of the Government. For as Aristotle, l. 5. Polit. n. 112. *Tyrannus efficitur qui vi dominatur, Regnum est Imperium voluntate Civium delatum; at si quis vel fraude vel violentia dominatur, manifesta Tyrannis est*: and l. 3. n. 87. *Reges solum volentibus imperant, si nolentibus imperatur regnum esse desinit*. So that the King having first deserted the People, and lost their Affections, and for this and other Causes deserted the King-

R. J. as-
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dom, and left it in confusion, giving order to his General to disband his Army without Pay, many of which were Papists, and known Enemies to the Nation, from whom they feared great Mischiefs to themselves; there being also another Army in the Nation which became successful, it was highly necessary that the Nation, to avoid utter ruin, should by their Representatives freely chosen, convene to consult and agree upon a fit Person for the Administration of the Government. And whereas the Person that headed the prevailing Army, was by good Providence married to the Heir apparent of the Kingdom, if he not only by his own Merit in preserving the Crown, which otherwise had been lost, but by Marriage of the right Heir, and with her and the Kingdom's consent be chosen to a Consortship in the Administration of the Government, it is no more than what Necessity and Right did require.

Nor is it more than what was done in the Case of *Henry* the Seventh, who having overthrown *Richard* the Third in Battel, was in a Parliament call'd by him, acknowledg'd their King; of which I shall give you the History as related by my Lord *Bacon*, p. 10. of his History, which may serve as a Precedent to authorize what is now done, and leads me to the *Eighth Query*, to which I shall answer, first Historically, and then Rationally, in justification of the late Proceedings.

The Coronation of *Henry* the 7th was on the 30th of *October*, 1485. and on *November* the 7th the Parliament met, in which (without respect to his Queen's Title, whose Coronation was defer'd till almost two Years after, when danger taught him what to do) he obtain'd that the Inheritance should rest, remain and be in the King and the Heirs of his Body, not mentioning his right Heirs: so that the Entail seem'd rather a personal Favour to him and his Children, than a Disinheritance of the House of *York*. And this being obtain'd, he marry'd the Lady *Elizabeth* on the 18th of *January*, which was celebrated with greater Triumph and demonstrations of Joy and Gladness, than either his Entry or Coronation, which the King rather noted than liked; and he shew'd himself no very indulgent Husband to her, tho she were beautiful, gentle and fruitful. So great an Enemy he was to the House of *York*, that he caus'd Sir *Will. Stanley*, who had sav'd his Life, and set the Crown on his head in *Bosworth-field*, to be executed for saying, That if he were sure that young *Man Perkin Warbeck* were King *Edward's* Son, he would never bear Arms against him.

Historical
account of
H. VII's
Coronation

This Case seems much more unjustifiable than ours, for here the King and Parliament did not only set the Crown on the head of the Conqueror, but intail'd it on his Heirs, without respect to the right Heir whom he had not yet marry'd, and for ought they knew never intended; of which his strange carriage towards that good Lady, whom he confin'd to live with the Queen Dowager her Mother in *London*, while he kept *Edward Plantagenet*, the Son and Heir of *George Duke of Clarence*, close Prisoner in the *Tower*, might give the Nation just suspicion that he intended to reign by his own Title as Heir of the House of *Lancaster*, or as Conqueror, without any respect to the Title of the House of *York*: And he intended (says the Lord *Bacon*) that it should be so believ'd, for to the Act of Parliament he added the Pope's Bull for confirmation.

Parallel
betwixt
that Case
and the
present

But in our Case, much more Justice, Wisdom, and Moderation did appear; the Title of the right Heir being united to that of our Deliverer, and the Crown intail'd on the right Line; the present Administration being by Consent, and in the Name of the King and Queen, which was not observ'd in the Case of *Henry* the Seventh; and the Consent of the Princess *Ann* being also obtain'd, who hath now a nearer prospect of the Crown than otherwise she could have hop'd for.

Nor is the making of the Convention a Parliament without a Precedent; for in the Year 1660. when General *Monk* had summon'd several Members in the like manner, but not so free, there being many of the King's Party excluded, yet they were made a Parliament by the King, notwithstanding any want of the King's Writs, *Anno Car. 2di. 12^o*.

Precedents
for a Con-
vention be-
coming a
Parlia-
ment.

And as to the rational part of the Answer, let it be consider'd, That a Nation must necessarily run into confusion unless such a means may be us'd: For suppose the Royal Line should be extinct, there can be no fitter Means to settle a Government than by such a Convention duly chosen, and the Agreement of the Lords Spiritual and Temporal, who want only the Royal Writ to summon them; and that not being to be had, the Nation may do what is in their power to prevent that Confusion which the King's deserting them, and carrying with him the Broad Seal, leaving

K. J. desert-
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two Armies in the midst of the Nation, by reason whereof it might in a short time have been as ill with us, as 'tis now with our distressed Brethren in *Ireland*, made necessary; and Necessity hath no Law superior to it.

The King
for the Peo-
ple, and not
they for
him.

This therefore may be an Answer to those that object against the too great hast in proceeding to a Settlement, before a Parliament could be regularly call'd by Writ; for considering the great Distraction of the Nations, and the ill Circumstances wherein this and the Kingdom of *Ireland* were, the delay of a speedy Establishment might have unsettled us for ever: for the King having either deserted the Government, or being driven from it, and another fully possess'd of the Kingdom, the common Safety would soon be destroy'd, if either the prevailing Power should be resisted, or some Person not be admitted for the administration of Justice, and prevention of Violence: As when a Ship-master forsakes his Ship in a Storm, and his Mate puts himself into his Office to guide the Ship; if the Mariners will not presently obey him as long as he guides the Ship towards the Harbor, the Ship must likely perish, and the Mariners in it: Or if the right Master should be utterly disabled by Sickness or Distraction to perform his Office, may not another assume his Office by consent of the Mariners? 'Tis King *James* the First's Saying, *The King is for the Commonwealth, and not the Commonwealth for the King*: The End is always accounted more noble than the Means. And unless it should be granted, that a King in plenary Possession ought to be acknowledg'd and obey'd, I cannot see on what ground our Saviour commanded *Tribute to be given to Cesar*, or the Apostle enjoin'd *subjection to the higher Powers*.

The Roman
Emperors
Title.

Instances
from the
Rom. Hist.

The Powers then in being, were such as usurp'd on the Senate, and were set up as Emperors by a part of the Soldiery, their best Title being the Approbation of the Senate *ex post facto*. The Usurpation of *Julius Cesar* is too well known to need a Relation; and that could not give a sufficient Title to *Augustus* against the Claim of the Senate. The Argument of our Saviour for paying him Tribute was, because the Mony bore his Image; as the Mony in the days of *Julius Cesar* bore his, and so may be an Argument for paying Tribute to any Prince whose Mony is current in a Nation. But this will be more evident by considering who was the Prince in being when the Apostle wrote his Epistle to the *Romans*, which was either *Claudius Cesar* or *Nero*: And the most credible Historians inform us, that on the death of *Caligula*, the Consuls and Senate advis'd how they might restore their Commonwealth to its antient Freedom, taken from them by the *Cesars*; but being too slow in their Resolutions, because of Dissensions among themselves, it hapned in the interim, that *Claudius* having hid himself, being frighted with the news of *Caligula's* Death, was discover'd by a common Soldier, who knowing him, saluted him Emperor, and led him forth to his fellow Soldiers, with whom he remain'd a part of the night, *Minore spe quam fiducia*, saith *Suetonius*. The Consuls and Senate then sitting in the Capitol consulting for their common Liberty, sent for him by the Tribune of the People, to have his Advice therein: the Soldiers and People assembled, desir'd that one might be forthwith nam'd for their Emperor; on which *Claudius* took Courage, and promising Rewards to the Soldiers, being also pitied by the People who thought him design'd to suffer Punishment, they saluted him Emperor.

Tacitus gives a like Relation of *Nero* his Successor, *Annal. l. 12*. That *Agrippina* his Mother concealing for a time the death of *Claudius*, kept the Palace-Gates shut, and pretended great kindness to *Britannicus* the eldest Son of *Claudius*, until she had contriv'd to make *Nero* Emperor; and having gotten the Prefect of the Bands then on the Guard to her Party, sends out *Nero*, accompanied by *Burrbus*, to the Guards, where while some expected *Britannicus* to follow, the Prefect and Soldiers to whom Rewards were promis'd, saluted *Nero* Emperor. Now one of these thus advanc'd to the Empire by the Soldiers, was undoubtedly the Emperor then in being, when the Epistle to the *Romans* was written, to whom Obedience is requir'd for Conscience sake as to the Ordinance of God. If it be reply'd that the Senate did afterwards confirm them in the Empire, that will not vary the Case, the present King and Queen being also confirm'd by Parliament.

That which hath been said, leads me to consider those Scriptures which seem to confine our Obedience only to the lawful Powers: yet some learned and good Men have given such a Sense of them as may raise a Doubt, whether they speak of a King *de jure* only, or *de facto*; and if of a King *de jure* only, then of such a one as is a Minister for the publick Good only.

For a right understanding of those Scriptures of the New Testament which speak of Obedience to Magistrates, as *Mat. 22. 21. Rom. 13. 1. 1 Pet. 2. 13.* we are to consider the Occasions of indicting them. That of our Saviour was occasion'd by such as accus'd him for an Enemy to *Cesar*, that he would make himself a King, and fought by this Question to insnare him; which our Saviour perceiving, he only demands to see a piece of the Mony with which they traded; and finding *Cesar's* Image on it, conceiv'd him to be the Magistrate then in power, commanding to give unto *Cesar* the things that are *Cesar's*. Moreover, the Jews having from the beginning been govern'd by one of their Nation, and, as they boasted, never in subjection to any other, thought it an usurpation in any to exercise Dominion over them: which made the *Roman* Power very jealous of them, there being at that time great expectation of a Prince that should govern the World; and the frequent Seditions and Rebellions of that Nation against their own and the *Roman* Magistrates, increas'd these Jealousies: *Judas* of *Galilee* having made a great Insurrection, and the Christians being call'd *Galileans*, were thought to be of the same Spirit.

Texts of
Scripture
vindicated

And as for the *Gentiles* that were converted to Christianity, to which they were invited, partly by the Privileges of their Christian Liberty, that they should not be the Servants of Men, and partly by the Apostles prohibition of going to Law before Unbelievers; some weak, and others licentious, as the *Gnosticks*, would acknowledge no Magistrates; and, as *St. Chrysostom* observes, some of the *Galileans* would rather die than pay Tribute to the *Romans*. *St. Chrysostom* hath divers Observations on this 13th of the *Romans* very considerable; first he stops the mouths of such as did object, that the Apostle did abase his Christian Brethren, by subjecting them to earthly Princes, for whom the Kingdom of Heaven was prepared: To this the answer is, That the Apostle did not so much subject them to those Princes as to God who appointed them. Then he raiseth a Question, *Is every Prince then ordain'd of God?* I say not so, for I speak not now of any Prince, but of the Matter it self: for that some should command, and others obey, this I call the Ordinance of God. And he explains his meaning by the instance of Marriage, that the Man and Woman are join'd by God, *i. e.* Marriage is God's Ordinance; not that all such as cohabit as Man and Wife are join'd by God, but only such as are married according to the Laws of Wedlock. Thus the Apostle doth not say there is no Prince but of God, but there is no Power but of God. And on v. 5. for Conscience sake, he thus comments, *ἵνα μὴ δοξῆς ἀποκρίναι καὶ ἀγνοῶντες τὸ ἐνεργεῖν*; That they might not be ungrateful to their Benefactors. So *St. Chrysostom*, from whose Comment we may observe, that tho Government be God's Ordinance, yet the Person in Government is not always so; he only is God's Minister, who doth administer the Government for the common Good. 2. That we owe Subjection to the Person invested with the Government, who takes care of the publick Welfare, for Conscience sake; *i. e.* as an acknowledgment of the Benefits that we partake of under his Administration of the Government. Nor doth it appear that our Saviour, *Mat. 22. 21.* did determine that *Cesar* was the supreme Power *de jure*; for if in a private case he refus'd to decide a controverted right, *Who made me a Judge or Divider over you?* *Luke 12. 14.* much less is it probable that he intended to determine such a publick Case. And that the Apostle had no other respect but to the Person in possession of the present Power, may be doubted from what followeth.

St. Paul
vindicated

All Power
from God,
and how

Marriage
an Ordinance
of God, and
how

As for the Observation of some Criticks, that the word *ἐξουσία* is constantly us'd for a Person in lawful Authority; we find it otherwise, for *St. Luke* speaking of the Power of *Darkness*, *i. e.* the Devil, *Luke 22. 33.* his words are *ἡ ἐξουσία τοῦ σατοῦ*, *i. e.* the power of the Devil. Nor could the Devil derive a lawful Authority, as he could if this word would bear it, when speaking of the Kingdom of the World, he saith, *Σοὶ δώσω τὴν ἐξουσίαν ταύτην ἅπασαν*, all this Power will I give thee; as if he had Power to set up an Universal Emperor over the World. And *St. Luke* is observ'd to have written most exactly agreeable to the Greek Idiom of any of the Evangelists. So that it cannot be inferred from this Scripture, that the Persons then in Power were rightful Magistrates. *Grotius de Jure Belli*, P. 93. c. 4. Sect. 20. *In re controversa judicium sibi privatus sumere non debet, sed possessionem sequi; sic tributum solvi Cæsari Christus jubet, Mat. 22. 20. quia in possessione erat Imperii, & nummus ejus habuit imaginem.* From whence it followeth in the Judgment of *Grotius*, that our Saviour's Command to pay Tribute to *Cesar*, was grounded on his Being in possession of the Empire. And if this be so, as I cannot from the Command

Explanatio
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word Pow-
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Obedience
required
to the pre-
sent Pow-
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Power
signifies
the Person
actually in
power.

mand of our Saviour, *Matth. 22.* or from *Rom. 13.* see any Reason to the contrary, it will follow, that it is our Duty in *licitis & honestis* to yield Obedience to the present Powers. *Michael Salon*, an eminent School-man, is of the same Opinion, *Tbat the Romans possessed Judea by Tyranny, when our Saviour enjoyned the paying of Tribute, Q. 60. Art. 6. de Justitiâ & Jure*; where yet he affirms, *Tbat the Catholicks of England were bound to obey the just Laws of Queen Elizabeth, whom he calls an impious Woman.* Besides, I think it will be a very difficult Task for any Man to shew where the word *ἐξουσία* is apply'd to any Person that is out of the possession of the Power, seeing it ordinarily signifieth the Person that is actually in possession of the Power. For thus the Apostle speaks of the Powers that are in being, *ταῖς ὁυσίς ἐξουσίαις*; and to them he says we must be subject, not only for fear of wrath, which implyeth that we ought to prevent our Ruin, to obey the Power that is in possession. But then the Question is, how this obligeth the Conscience, when the Subject is formerly obliged to a Prince *de jure*? Now the Rule for directing Conscience, is the Word of God; and if that do enjoyn Obedience to the Prince in possession, the Subject may safely yield it, and ought to do it for Conscience-sake. *Puffendorf* is of the same Judgment, p. 1009. *de Jure Gentium*, where he says, *Tbat the Senate and People of Rome were deprived of their Antient Right thro fear or want of strength, not by approving the Dominion of the Cæsars.* (So *Emanuel Thesaurus* says, that the People of Rome under *Tiberius*, did *Tempori servire non Regi*) And it is well known, says he, by what means the Antient Cæsars invaded the Empire. Yet *St. Paul, Rom. 13.* attributes *ἐξουσίαν* Authority to them to whom Obedience is to be yielded for Conscience-sake, as our Saviour also commands to give unto Cæsar the things that are Cæsar's. On which occasion also he mentioneth that Statute of *Henry VII.* which indemnifieth those Subjects who acted under the King in being. And he adds a Sentence from *Nicetas Choniates, nec Imperatorem qui absit quaerendum, nec qui adsit pellendum esse.* So that I think the Cases in the 22. of *Matth.* and *Rom. 13.* may satisfy Conscience as to our present Case; for if those Cæsars who were then in possession, were to be obey'd for Conscience-sake, even when the Right did belong to the Senate, then we may also obey the King now in being, tho there be another to whom it is supposed the Right of Government doth belong, without wounding our Consciences.

Present
Power
God's Or-
dinance.

Obliges to
Obedience
for Con-
science-
sake.

K. J. made
himself un-
capable of
Govern-
ment.

Now if the present Power be God's Ordinance, we must obey for Conscience sake; for if we believe that God hath an over-ruling Providence in the Government of the World, to set up one and pull down another, tho we see not a reason of the Alterations that are made, yet we must believe that there are great and just Causes, and such as are directed to good Ends, especially where it appears that God by such Revolutions brings Order out of Confusion; and the Changes that are made, are effected more visibly by the Counsel of God, than the Conduct of Man. Another Rule of Conscience is the Glory of God; that which tends most to the advancing of God's prescribed Worship, the Purity of his Ordinances, a sound Faith, and holy Life, we may with a good Conscience submit to. It is a Saying of *Polycarp*, when he was near his Martyrdom, *We owe all due Obedience to Princes and Potentates, yet not so as thereby to endanger our eternal Salvation.* The Law of Charity is another Rule of Conscience, which as it obligeth us to do good unto all men, so more especially to them that are of the Household of Faith, for whom we should lay down our very Lives, that we may prevent their Misery and Destruction. *St. Paul* could wish himself accursed from Christ for his Brethren and Kinsmen according to the Flesh, *Rom. 9. 3.* And what he suffer'd and did for his Brethren according to the Faith of Christ, appears as by his great Afflictions, so by his ready Compliance in the case of circumcising *Timothy*, *Acts 16. 3.* because of the Jews that were at *Lystra* and *Iconium*, tho he were of a Persuasion that Christ could profit them nothing that were circumcised, seeing that such became Debtors to do the whole Law. And *Acts 21. 23.* when *St. James* and the Elders inform'd him, that the Jews would be offended by his teaching them that they ought not to circumcise their Children, nor to walk after their Customs; he was persuaded, lest he should offend them, to purify himself, and in the Company of others to go into the Temple, to shew that he kept the Law. From whence we learn, that it is our Duty to part with many Opinions of our own, not absolutely necessary to Salvation, for the Propagation of the true Religion. I speak not this as if it were lawful to do any evil that good may come of it, which the Apostle utterly condemns, but only on supposition that the late King hath rendred himself incapable of the Government, and that the present King and Queen (considering the Circumstances wherein

wherein we were) are regularly advanc'd to the Government, that we ought to pay our Allegiance to them. The Question whether Human Laws do bind the Conscience, is much discoursed of by Divines, who resolve, that they do not bind the Conscience immediately by their own Authority, but mediately by virtue of the Command of God, who enjoyns Obedience to the Higher Powers: But then if the matter of the Law be unjust, or if it be not for the Publick Good, which is the end of all Human Laws, they are not obligatory to Conscience; for the Rule of Conscience in things Political is the Publick Welfare: So the Antient Roman Law, *Salus Populi Suprema Lex*, which is the same with that of the Apostle, *He is the Minister of God to thee for good, i. e. not for thy Private Good only, but for the Publick Good*, as tending continually on this very thing, *i. e. the Publick Good*, wherein thy Private is concern'd; for the Laws do not respect this or that particular man's case, but the Common good; and good Laws may be grievous to this or that particular Man in some cases, which yet highly conduce to the Publick Welfare; and better is a private Inconvenience than a publick Mischiefe. Those Laws therefore that tend most to the publick Welfare, are the Rule of Conscience in political Affairs. And as when a Magistrate makes a Law against God's Law in religious Matters, it binds not the Conscience; so when a Magistrate makes a Law against the publick Welfare, it binds it not in political Affairs: because the Magistrates Power is deriv'd from God, and God hath limited that Power for the Publick Good as its great end; and such Laws as are contrary to that end, have no Authority, nor do oblige the Conscience. It is truly said, that some things are commanded, because they are good; other things are good, because commanded: Now our Obedience to Governors is good, because it is commanded; but a respect to the Publick Welfare in all Laws is commanded, because it is the chief good and end of Government, and so is prior and paramount to all Political Laws. And hence it is, that the Casuists do resolve, that Human Laws do not bind the Conscience, when things grievous and intolerable are commanded. But then the Question will be, Who shall judg whether the Laws made are conducing to the Publick Good or not, when not only the Magistrate, but the Representatives of the People have pre-judged it, and therefore past it into a Law? *Ans.* There are few Laws, like those of the *Medes and Persians*, unalterable: what was for the Publick Good at the time of making the Law, may afterward, on the alteration of Times and Accidents, prove to be otherwise; and when the Reason of a Law ceaseth, the Obligation of it ceaseth also as to Conscience. There was a Law made against the use of that pernicious Weed of *Hops* (as the Law termeth it) because it was thought prejudicial to the Health of the Subject; and tho the Reason of the Law might be good as to some particular Men, yet long Experience taught, that the use of *Hops* was more beneficial to the Publick; and therefore tho that Law was not repeal'd, yet the use of *Hops* was continued: Now the Question is whether such Brewers as continued the use of *Hops* against the Statute, did sin or not in so doing? If they did not sin, it was because their Consciences were not oblig'd by that Law; if they did sin, then the breach of a mistaken and erroneous Law is a sin, and damnable, which is a very hard Sentence.

Publick
Good to be
chiefly
considered.

Simily
from the
Law a-
gainst
Hops.

But secondly, Altho the greater part of the People with their Legislators may judg the Laws made to be for the Common good, yet every Man must judg of his own Actions, in reference to those Laws, whether they be agreeable to the Common good or no; for the greater number in Councils may err, there is no infallible Judg in Civil or Religious matters: If then the Law-givers may err, or my Conscience tells me that they do err, I am not bound to do what they command by a blind Obedience, but to use my private discretion, in enquiring whether the thing enjoyn'd be for the Publick good or not; for if I am allow'd to use the Judgment of my private discretion in Religious matters, why not in Civil? Men are not to go as Beasts where they are driven, much less to act contrary to their Reason and Judgment, which makes them worse than Beasts, who will follow their Senses unless they are hindred by force: so that I am not bound to obey a Law merely Human for Conscience-sake, when I judg that Law contrary to the Publick Welfare; but I must submit to the Penalty, if I cannot honestly avoid it. But if a Magistrate that is oblig'd to govern by Laws, do resolutely set himself to destroy those Laws, and ruin not only the generality of his Subjects, but his own Crown and Dignity, we are not bound in Conscience to obey such a Magistrate, because of a prior Obligation to preserve the Publick Welfare, which was the end of Government, and to which the means are subordinate. It now remains, that having prov'd Scripture and right Reason to be the Rule of Conscience for our Obedience both to Magistrates and their Laws *in foro interno*, I do also prove, that a respect to the

Judgment
of Discre-
tion al-
low'd in
Civil as
well as
Religious
matters.

Publick good (not being contrary to any Law of God) is our Rule for Obedience, *in foro externo*.

Self-preservation
is the Law
of Nature.

One chief Law imprinted by God on the Reason of Mankind, is the conservation of it self, and for that end *vim vi repellere*, to repel Force by Force; for which end Mankind were taught to live in Societies, and establish Rules and Laws for the Common Safety: therefore *homines conspirantes in communem Utilitatem*, are the Subject-Matter of a Common-wealth, this being the end of all Societies. No Civil Constitution can annul this Bond of Nature: So *Panormitan. Quando jus civile aliquid disponit contra jus naturæ, standum est juri naturæ*. So also when the Law makes Provision for such things as the Law-givers foresee, and afterwards some things happen which could not be foreseen, and new Reasons and Accidents appear contrary to those Laws; here Nature, as a common Parent and Protector of Justice and Necessity, alters or adds to the Law: as when *Sextus Tarquinius* ravished *Lucretia*, tho there were no establish'd Law against that particular Sin, yet Nature it self directed a severe punishment. And when the *Pharisees* pleaded their Vows to the *Corban*, in bar to relief of their Parents, which is a Law of Nature, our Saviour pronounc'd such Vows null. Bishop Taylor, p. 296. proves, That the Law of Nature cannot be dispensed with by any Humane Power: 1. Because God is the Author of it. 2. Because this Law of the Preservation of the Common welfare is as necessary to the support of Societies as Nourishment is for the support of their Bodies. 3. Because Natural Laws are the dictates of Natural Reason: and no man hath Power to alter Reason, which is an Image of the Divine Wisdom, and therefore unalterable. As to the Law part, the *Act 11 Hen. 7. c. 1.* says, That it is not reasonable, but against all Laws, Reason, and good Conscience, that Subjects going in War with their Sovereign Lord (for the time being) should lose or forfeit any thing for doing their Duty and Service of Allegiance: and it was enacted, That from thenceforth no Person attending on the King for the time being, and doing him true and faithful Service of Allegiance in his Wars, should in any wise be convicted or attaint of High Treason, or of other Offence for that Cause, but to be for that Service utterly discharg'd of any Vexation, Trouble or Loss. The Lord Bacon, p. 144. of the History of Henry VII. gives a Reason of this Law; for that it was agreeable (saith he) to Reason of State, that the Subject should not enquire of the justness of the King's Title or Quarrel; and it was agreeable to good Conscience, that whatever the Fortune of the War were, the Subject should not suffer for his Obedience. The Spirit of this Law was wonderful Pious and Noble, being like in matter of War to the Spirit of David in matter of Plague, who said, If I have sinned, strike me, but what have these Sheep done? Neither wanted this Law parts of prudent and deep foresight, for it did the better take away occasion for the People to busy themselves to pry into the King's Title, for that however it fell, their Safety was provided for. Besides, it could not but greatly draw unto him the love and hearts of the People, because he seemed more careful for them than for himself.

Treason is
against a
King in
possession.

The Lord Cook, p. 7. in the Third Book of *Institutes*, on the word *Le Roy*, speaking of Treason, says, That the *Act for Treason* is to be understood of a King in possession of the Crown and Kingdom; for if there be a King regnant in possession, altho he be *Rex de facto* only, and not *de jure*, yet is he King within the purview of this Statute. And the other that hath Right, and is out of possession, is not within this Statute: And if Treason be committed against a King *de facto*, and not *de jure*, and after the King *de jure* cometh to the Crown, he shall punish the Treason against the King *de facto*; a Pardon granted by the King *de jure*, that is not also King *de facto*, is void. It is the Opinion of all Lawyers, that *in rebus dubiis melior est conditio possidentis*. Judg Hale gives the same sense of that Statute, in his Remarks on the Pleas of the Crown, Chapter of Treason.

Rule of the
Law is,
where Protection
is given
Allegiance is
due.
Instances.

Now both these were great Lawyers, and wrote under such as were Kings *de jure*, and in peaceable times. The Argument then is this: If Treason may be committed against a King in possession, or *de facto*, and not against the King *de jure*, being out of the Possession, then I owe Allegiance to the King in possession, and not to the King out of possession, tho King *de jure*. The Rule of the Law is this, I owe Allegiance to him that gives Protection, whether I live at home under a King *de facto*, or as a Stranger abroad under one that is a King *de jure*. I owe Allegiance to each while I am under their Protection; for thus in *Calvin's Case*, Book 7. of *Coke's Reports*, one *Shirly* a French-man and some Subjects of the King of Portugal, having conspir'd with *Lopez* the death of the Queen, were indicted for acting *contra Ligeantiae suæ debitum*, against their due Allegiance, and were found guilty and executed. And this the Law calls a local Allegiance. When Cities and Soldiers are taken in War, they may

may, to preserve their Lives, swear to the Conqueror never to bear Arms against him; by which Oath the Condition of their former Prince is no way made worse, for had they refus'd such an Oath they should have lost their Lives; which by this means being preserv'd, they may be in a condition to serve their Prince in any thing else but in fighting against him who spared his Life. Besides it is well known, that many good and wholesome Laws were made by such as were Kings only *de facto*, not *de jure*, which are still in force with us as they were with the Subjects that liv'd in their several Reigns: Whence it follows, that we owe and ought to yield Allegiance to the King *de facto*, and to observe his Laws, and to pray for him as King. On the deposing of Richard the Second, in a Provincial Synod in Canterbury under Henry the Fourth, whose Title was only *de facto*, it was decreed, that Prayers should be made *pro ipsius & Regni salute*, as he had desir'd. And Arundel, then Arch-bishop of Canterbury, tells the King, that the Clergy did *pugnare precibus & sacrificiis apud Deum pro victoriis ei obtinendis*. *Aethelwolfe*, Anno 854. was made King while his Elder Brother was living; yet *Elston* and *Switbon*, Bishops, prayed solemnly for him: So the Bishops pray'd for *Will. Rufus* his elder Brother living. *St. Anselme* also, tho banish'd by Henry the First, did him Homage, and pray'd for him. And altho our five first Kings, beginning at *William* the Conqueror, came irregularly to the Crown, the first by Conquest, the second and third while their elder Brother lived, the fourth reign'd when his Predecessor had a Daughter living, which was *Maude* the Empress; the fifth while his Mother, the right Heir, was living; yet were the stated Forms of Prayer still continu'd in the antient *Missals* respectively.

Nor can we well be excessive in our deference to those who under God have been the chief Instruments of the Common Safety; for if the Law of Nature, which obligeth every particular Person to self-preservation, and much more to the preservation of the Publick Welfare (in which case we may *vim vi repellere*) be prior and paramount to any subsequent Law of a more private Concern, we of this Nation which were so near to destruction, had all imaginable reason to secure our selves against such violent and illegal Attempts as were made, not only against our selves, but against the whole Protestant Interest throughout all *Europe*; having such dreadful Instances of Persecution in the neighbouring Nations of *France* and *Piedmont*. For the Question is not, whether we should chuse Sin rather than Affliction; in which case the Apostle hath determin'd, *that we may not do evil that good may come of it*: But whether of two temporal Evils the least is to be chosen, or whether when we are left without a Governor, we should set a Bramble over us to rend and tear our Flesh, or the healing Olive under whose Branches we might sit down in peace and security. It is very observable what God says concerning *Jehoiakim* the wicked Son of (a good Father) *Josiah*, Jer. 22. 15. *Shalt thou reign, because thou closest thy self in Cedar? did not thy Father eat and drink and do justice and judgment, and then it was well with him? But thine eyes and thy heart are not but for thy covetousness to shed innocent blood, and for oppression and violence to do it: Therefore thus saith the Lord concerning Jehoiakim, the Son of Josiah King of Judah, They shall not lament for him, saying, Ah Lord, or ah his Glory.*

I shall therefore leave it to the serious consideration of my Brethren, whether it be more eligible to pray for them in our Liturgy, who have preserv'd us in the free use of it, or for such as would have taken it from us, and impos'd the Mass-book and Legends, instead of that and the Scriptures, by which we should have been reduc'd to this Dilemma, Either we must obey to the violation of our Conscience, or for our Disobedience we and our Families must be utterly destroy'd.

Question
put to the
Non-swear-
ers.

If yet upon consideration of what hath been here said, and what our own Judgments may add, we are still in *æquilibrio*, and do doubt to whom the Title of the Crown doth of right belong; I doubt not but the Law of Charity to our selves and Families, and love to the Protestant Religion, may be of great weight to turn the Scales, and warrant our Resolution in a case so doubtful.

Bishop Sanderson, *Prælect.* 5. p. 176. puts this Question, *When any one takes the Government on him, having by force driven out the lawful Prince, or so straitned him, that he cannot pursue his Right which is invaded, not on a doubtful Right, but by manifest Wrong; what shall a good Subject that hath sworn Allegiance to the oppressed Prince do in this Case?* His answer is, *It seems to me, that it is not only lawful for a good Subject to obey the Laws of the Prince in being, and to do what he is commanded, modo non sit factum turpe aut injustum, if the thing be not in it self evil or unjust: But also, that if the condition of humane Affairs require it, there may be a necessity of obeying, or he may be*

Bp Sanderson's
Testimony.

judg'd to fail of his duty. And whereas he had said, that Laws made by him that wanted lawful Power did not bind in Conscience; He answers, That these things are not repugnant, because tho the Subject be bound to do what the Law requires, yet he is not bound to that Law, but to himself and his Country. The Obligation is annex'd to the Law that concerns himself, and is truly a Law, which he thus explains: Seeing it is the Duty of a pious and prudent Man to consider, not only what is lawful, but what becomes him, and may be expedient to others, a good Subject may be bound to do that for the welfare of himself and fellow Subjects, to which by Law he is not bound; which Obligation ariseth from the Duty he oweth to himself and to his Country, that Wars and Rapine may be prevented, and we may live peaceably under them, without violating the Faith we owe to the rightful Heir. But then he raiseth the Question, Seeing no Man can serve two Masters, especially of contrary Interests, how can we please the one, without displeasing the other? His answer is, It may be presum'd, that the rightful Prince will consent, because the Subject herein doth not so much serve the Possessor as the Commonwealth, the safety whereof no less concerns the injur'd Prince than the present Possessor, and probably more: for as the true Mother of the Child had greater tenderness of its Life than the pretended Mother; so the true Prince may be presum'd to have a greater regard to the welfare of the People than the Usurper.

Claudian to Honorius.

*Tu civem patremq; geris, tu consule cunctis
Non tibi, nec tua te moveant sed publica vota.*

As a Mariner is suppos'd to intend the guiding of his Ship to a safe Harbor, and a Physician to intend the Health of his Patient; so is a Prince presum'd to intend the Prosperity of his People, which is the great End of Government.

Bp Bilson.

Bp Bilson goes farther; who speaking of the Roman Cruelties, says, "They are such as are able to set good Men at their Wits end, and make them justly doubt, since you refuse the course of all good Laws, Divine and Humane, whether by the Law of Nature they may not defend themselves against such barbarous Blood-suckers. For whatever is attempted on us without Law, is Force; and we may *vim vi repellere*, as in the Case of a Sheriff taking possession on a Judgment; if a Prince should commission armed Men to oppose him in the execution of his Office, he may lawfully resist them, and the Law doth indemnify him: the Prince's private Will cannot make void his publick Will, formerly declar'd and publish'd in his Laws.

England
assisted
Scotland
against
their
Queen.

French
Protestants
assisted by
Q. Eliz.

This hath been the sense and practice of our own and other Protestant Nations; of our own in the Case of the Queen of Scots, who brought French Forces into Scotland, to withstand the Reformation, endeavour'd by the Nobles: The Clergy of England gave a Subsidy of 6 s. in the Pound to defray the Charge of that War, and call it, a using all prudent and godly Means, 5 Eliz. ch. 24. and ch. 27. The Temporality call it, 'The Princely and upright preservation of the Liberty of the Realm and Nation of Scotland from eminent Captivity and Desolation. And for abating Hostility and Persecution within the Realm of France, there were Forces sent under the Earl of Warwick to New-haven, to assist the French Protestants; which was then accounted a godly and prudent Means to abate Hostility and Persecution, practis'd against the Professors of God's Holy Gospel. And in the 35 of Eliz. ch. 12. was another Subsidy granted by the Clergy for the Queen's Charges, in the prudent and needful prevention of such Attempts as tend to the Extirpation of the sincere Profession of the Gospel both here and elsewhere. And ch. 13. the Temporality gave this Reason for their Subsidy; 'Besides the great and perpetual Honour which it hath pleas'd God to give your Majesty abroad, in making you the principal Support of all just and religious Causes against Usurpers, besides the great Succours in France and Flanders, which we conceive to be most honourable in regard of the antient League, the Justice and Equity of the Causes, &c. And in 39 Eliz. ch. 27. they say, 'This Land is become, since your Majesty's Days, both a Port and Haven of Refuge for distress'd States and Kingdoms, and a Rock and Bulwark of Opposition against the Tyranny and ambitious Attempts of mighty usurping Potentates. And in 43 Eliz. ch. 17. the Clergy say, 'Who hath, or should have a livelier sense, or better remembrance of your Majesty's Princely Courage and Constancy in advancing and protecting the free Profession of the Gospel within and without your Majesty's Dominions, than your Clergy? And we

we cannot doubt they would have acted the same thing for their own Preservation, which they approv'd and encourag'd others to do.

The Protestants of Saxony and Lantgrave being seven Princes, and Twenty four Cities, declare, ' That the Emperor was reciprocally bound to them as they to him; and that he had dissolv'd their Obligation of Allegiance, by casting them out of their Possessions, and endeavouring to destroy their Religion; which unjust Attempts have not God for their Author: Nor are we otherwise bound to Cesar, than on his performing the Conditions on which he was created Cesar. Sleidan, lib. 18. The Magdeburg Divines affirm the same, Sleidan, lib. 22. ' Where the Laws and Constitutions of a Government allow of a defence, the Gospel doth so too, for it doth not alter the Laws of a State. Which may be an answer to what is urg'd from Rom. 13. for the Obligation of all Subjects is such, as the Laws under which they live do require. The Oath of the Subjects of the King of Poland hath this *Salvo* in the Oath of the King; *Quod si Sacramentum meum violavero, incolæ Regni mei nullam nobis obedientiam præstare tenebuntur.* In Richard the Second's Time, the Parliament declar'd in a Statute of *Præmunire*, ' That the Crown of England hath been so free (*i. e.* from the Incroachments of the Pope) at all times, that it hath been in no earthly Subjection, but immediately subject to God in all things touching the Regality of the Crown; and God defend (*say they*) that it should be submitted to the Pope, and the Laws and Statutes of the Realm be by him defeated and avoided at his Pleasure, in perpetual destruction of the Sovereignty of the King, his Crown and Dignity, and of all the Realm: and therefore they declare, That they and all the Liege Commons of the Realm, will stand with their Lord the King, and his Crown and Regality in the Cases aforesaid (*viz.* purchasing of Bulls from Rome, executing Judgments given in that Court, translating of Bishops, &c.) ' and in all other Cases attempted against him, and his Crown and Regality, in all Points to live and to die. And they pray the King, and him require by way of Justice, to examine all the Lords in Parliament, as well Spiritual as Temporal, severally, and all the Estates of the Parliament, how they think of the Causes aforesaid, which be so openly against the King's Crown, and in derogation of his Regality, and how they will stand with the King in upholding the Rights of the said Crown and Dignity. And we find by a Letter of King John to the Pope, That if the King would, yet the Barons would not submit to King or Pope in those Cases. How contrary to this Statute of *Præmunire* did they act, that instead of a strict enquiry after such as endeavour'd to subject the Nation to the Usurpations of Rome, did closely and particularly examine both Lords and Commons, whether they would submit to the introducing that Usurpation; and upon their refusal were presently discharg'd of their respective Offices, and excluded from the Prince's Favour: Was not this to subvert a Fundamental Constitution of the Government, and by that Act to incur a *Præmunire*?

Protestants
in Germa-
ny their
behaviour.

K. John
submits to
the Pope,
but the Ba-
rons refuse

Carpzovius, an approv'd Author, *de Capital. Casarea*, says, c. 1. p. 15. ' There is no King or Supreme Prince in the Christian World, whose Power some certain Compact made with the several Orders of the People, may not restrain and limit, and which are not bound by the Capitulation. Reinkinck says the same of the Emperor, *de Reg. Secul. l. 1. Class. 3. p. 76.* That Cesar the Head of the Empire, is bound by the Laws. And how should the King of England be above all the Christian Kings? It was too much for him to aspire to be like the most Christian King.

Henry the First acknowledg'd, That if he would submit to the Pope, his Nobles would not permit it. And the Lords and Commons under Edward the First, signify'd to the Pope (concerning his Claim to Scotland) That they neither ought nor would permit it, altho the King should attempt it. And under Henry the Third it is recorded, That if the King and Nobles should agree to it, yet the Commons would not permit the entrance of Adomer the Pope's Legate into England. Bodmin treating of the King of France, says, *Principem contra leges nil posse, & rescriptis ejus nullam rationem haberi debere nisi equitati perinde & veritati consentanea sint.* Bracton of the King of England says, *Rex est sub lege quia Lex facit regem.* This Bracton, who liv'd in the Reign of Henry the Third, was of the Judgment, That the Barons had a Power to restrain the King's Exorbitances, lib. 3. ch. 26. *Rex habet superiorem Deum, item Legem per quam factus est Rex, item Curiam suam, viz. Comites & Barones suos.* The Barons proceeded in the Wars on this Principle, That they had a Power to restrain their Kings from subverting the Laws and Religion establish'd. And what Opinion the Religious Men of that Time had of those Wars, may appear by the Opinion that the

So Hen. I.

the Chronicle of *Mailros* had of *Simon of Monfort*, of which I have spoken before. This may suffice to resolve the Conscience in respect of the Law.

Thus have I given an Account of the Judgment of many learned Men concerning the *Queries* propos'd. How far they may prevail with others I cannot presage: But I plainly perceive, that many learned and good Men are yet of another Opinion; and indeed there are many very difficult Arguments, both from Scripture and Laws, which by the several Interpretations given of them by learned Men of this and former Ages, may confirm them in their Prejudices. Therefore my humble Request to them that are yet unsatisfy'd, is, that laying aside all Prejudices, they would maturely consider of the Arguments *Pro* and *Con*; and after diligent Enquiry, and hearty Prayers, follow the Dictates of a well-inform'd Conscience.

— *Si quid novisti rectius istis,
Candidus imperti, si non his utere mecum.*

In the mean time let the Apostle's Rule be observ'd by the Parties of different Persuasions, *Rom. 14. 1.*, &c. which he gives in the Chapter immediately after the Rules for Obedience: *Him that is weak in the Faith, receive, but not to doubtful Disputations; for one believeth that he may eat all things, another who is weak eateth Herbs. Let not him that eateth, despise him that eateth not; and let not him that eateth not, despise him that eateth. Who art thou that judgest another Man's Servant? Let every Man be fully persuaded in his own Mind.*

POSTSCRIPT.

THE Arguments that have been propos'd, may prevail with some Persons to alter their Judgments concerning their Obligations to the late King; and if so, they will be sensible of the necessity of transferring their Duty to the establish'd Government, which they may do with all chearfulness and confidence of Acceptation and Favour: for their present Majesties cannot but judg, that they who were so conscientiously dutiful to the late King, while he kept his Station among them, tho he industriously sought to ruin them as to their Civil and Religious Interest, and were doubtful how they might desert him, when he had abandon'd and deserted them; I say, they cannot but judg upon their ingaging to be true and faithful to them who have redeem'd 'em from Slavery and Popery, and adventur'd all their Substance, and their very Lives, that they might secure to them their Laws, Liberties and Religion, which doubtless they will make their chief business, because it is their Interest so to do.

*Submission
to the pre-
sent Govern-
ment urg'd.*

As to such who having weigh'd these Arguments, are yet in *æquilibrio*, and doubt whether the late King or their present Majesties have the better Right; in such a Case a Man is to act according to his Reason and Discretion; and then tho he may be mistaken, yet his Mistake is pardonable. Now his Discretion will teach him to recollect all the Inconveniences and Miseries that will most probably follow on his refusal to submit to the present Government. If he still adhere to the Interest of the late King, and he should prove successful, then in all probability he will intail Popery and Slavery, not only on himself and Family, but on the whole Nation for succeeding Ages, and on the Protestant Nations throughout all *Europe*: whereas if he live in due Obedience to the Establish'd Governmen, in conjunction with the Body of the Nation, and study to be quiet, and to do his own business, following Peace and Holiness, all those Evils may be prevented, and the Lord will bless our *Sion*, and we may see the Good of *Jerusalem* all the days of our Life; yea, we may see our *Childrens Children*, and Peace upon all the *Israel of God*. These Considerations ought to turn the Scales which hung in equal ballance before. To such a doubting Person I shall propose this Case: Suppose a Person that hath been given to Quarrels and Brawls be found dead, and some Wounds and Bruises found by Inquest on his Body, whereby it is presum'd that he was murder'd; and a Neighbour of his, a Person of a sober and peaceable Conversation, being known to have been in his Company near the time and place where he was found dead, is arraign'd for the Murder; but

but no Evidence of the Matter of Fact produc'd against him, only some probable Circumstances; the question is, Whether a Jury-man that hath only some Circumstances to guide him in his Verdict, may find such a Person guilty of that Murder; which if he do, he may draw the Guilt of shedding innocent Blood on himself, and undo a Neighbour's Family: I think an *Ignoramus* would be more justifiable than a Sentence of Guilt. Where the Case is dubious, we should chuse that part which infers the least danger in case we should err, as *Aristotle* says; and thence he concludes, *It is much better to absolve the Guilty, than to condemn the Innocent.* And, *Minus malum rationem induit boni. In rebus dubiis pars tutior eligenda.* I know that Bishop *Sanderson* in his *Judicium Ox.* p. 44. hath determin'd, *That when a King is hindered from protecting his People (Culpa non sua sed aliena, nec voluntatis defectu sed potestatis) for want of Power, we are not freed from our Allegiance:* But in case there is not only a defect of Power to protect us, but a plain declaration of a Will to destroy us, this will plainly overthrow that determination, as the Bishop himself hath in other of his Writings done: *Ubi desinunt judicia incipit bellum.* And it is to be consider'd, that the Bishop wrote this in the Case of *Charles the First*, from which this of *James the Second* differs *toto coelo.*

To those that are not yet reconcil'd to the now Establish'd Government, I shall offer these Considerations:

First, Whether the present King had not a just Cause for invading the Kingdom?

Secondly, Whether having invaded it, and obtain'd a full and peaceable Possession by a general Consent of the People, he hath obtain'd a rightful Title?

Motives of Submission, and owning the present Establishment.

The Causes that do justify the Invasion are these.

1. The vindication of his Lady's Title, which was in a manner endeavour'd to be ravish'd from her by a Prince, whose Birth was so much suspected, and whereof the Nation was so generally convinc'd.

2. The Invitation of the Subjects, Lords Spiritual and Temporal, with many Commons, groaning under an Arbitrary Power, Popery and Slavery; for which Cause many Lords and Commons had left the Kingdom, and sought Protection from the present King, and came in with him.

3. The present King was made the Head of the Protestant Party by those Princes who undertook the Defence of the Reformed Religion, against the Popish Princes that had confederated to root it out: and a better Method could not be taken, than to begin with *England*; where, if the Designs for Popery had succeeded, the Protestant Cause had been almost desperate, which is now in a hopeful way of Establishment.

These Causes are so sufficient to justify the Invasion, that I think no good Protestant will doubt of them; and as little doubt can be made of the second Consideration, that he who on such just Grounds invades a Kingdom, and having gotten a full and quiet Possession, is by the general Consent of the People accepted and declared their King, hath a lawful Right and Title: for first, *Ubi desinunt judicia incipit bellum*; and as Law-Suits, so War may be wag'd for prevention of Injuries not yet done. As *Livy* says, *Iustum est bellum quod necessarium est, & pia Arma quibus nulla nisi in armis relinquitur spes*; When it is manifest our sitting still will make our Condition worse, we may adventure on the danger of War. The War was begun by the *French King* and his Confederates against the Prince; *England* was like to be in the Confederacy by what the King acted and endeavour'd against the Protestant Religion: And, *Tunc tua res agitur.*

This is the first Cause that justifies the War on the present King's part; the second Cause is, the Recovery of the Right which his Lady and himself had to the Succession, which was in a manner taken from them. *Grotius de Jure Belli, l. 2. c. 1. sect. 2. De rebus repetendis*, proves this at large in a considerable Paragraph, to which I refer the Reader: And of this I shall give but one or two Instances among many in the Scriptures. *Abraham's War* on the King of *Elam* who had spoil'd *Sodom*, was just, *Gen. 14.* And so were the Wars of *Israel* against the *Assyrians*, and other Nations that invaded their Dominions, and would have kept them from them; of this there can be no doubt. Nor can, secondly, the Vindication of a People oppressed by their Prince against the Laws of God and the Land: If a Father seek the destruction of an innocent Person, his Son may piously restrain his Father from that Act, which would not only ruin the innocent in this World, but himself in the World to come. So that this War for the asserting the Title of the Prince and Princess to the Crown, and for the defence of our Religion, against the Confederacy of Popish Princes to extirpate it (which is Matter of Fact) may appear most Just;

Just; for tho Religion may not be propagated by Arms, yet it may be defended where it is establish'd by Law, against foreign Powers that conspire the destruction of it. *Grotius*, l. 2. c. 25. n. 4. approves a War on behalf of Confederates; 'For he that doth not repel an Injury from his Confederates if he can, is as much in fault as he that doth the Injury. He commends *Constantine* for making War on *Maxentius* and *Licinius*, who persecuted such of their Subjects as were Christians, only for their Religion.

Grotius, l. 2. c. 20. n. 39. 'Injuries begun only, are not to be vindicated by Arms, unless the Matter be both very weighty, and be already proceeded so far, that from what is already done, either a certain Mischief, tho not yet what was intended, hath already befallen, or some extraordinary Danger do threaten thereby. If an Enemy hath once assaulted me, and comes arm'd with a resolution to kill me, I am not to tarry till he comes within reach of me, and receive his Weapons upon my naked Breast, but seasonably to prevent him.

And, l. 2. c. 25. n. 8. 'Those Princes who are free, may make War for themselves or others: And tho we should grant that Subjects might not take Arms for their own Defence against their Prince, no not in case of greatest necessity, (which yet is doubted even by those whose purpose it was to defend Regal Power) yet it follows not that other Princes may not take Arms in their defence; that which is unlawful for one to do for himself, by reason of a personal Impediment, may be lawful for another to do for him.

As in Affairs of the Church, the Bishops are said to take on them the Care of the Universal Church; so beside the Care of their particular Dominions, Kings assume the general Care of Human Societies. *Seneca* resolves, *Bello a me peti potest quia mea gente sepositus suam exagitat*. And *Cicero*, That War should be undertaken only that we may live in Peace, and not be injur'd.

It will be objected, That God will take care of our Religion, *Deorum injuria diis curæ, & perjurium satis habet deum ultorem*.

Answ. So it may be said of other Sins which God will punish; yet the Laws are justly executed on the Offenders by the Magistrate, as all grant.

And if it be objected, That such Offences are punish'd, not so much as committed against God, as for the Damage done to Men.

Answ. It is observ'd, that not only such Offences are punish'd by Men, as are directly committed against other Men, but such as by consequence may be prejudicial to others, as Self-murder, Sodomy, &c. for tho the principal End be to procure God's Favour (by punishing such Crimes) yet it is done also to prevent the Influence and notable Effects on human Societies. See l. 2. c. 20. n. 44.

It may be farther objected, That if we wholly forsake the King, we shall justify the Rebellion against King *Charles* the First, who was charg'd with Designs of bringing in Popery and Arbitrary Government, Illegal Impositions, Evil Counsellors, &c.

Difference
in the Case
of K. Ch. I.
and K. J.
II.

Answ. I suppose the Objectors that are so tender of committing any Act of Disloyalty against King *James* the Second, will by no means approve of what was done against King *Charles* the First; but they are afraid of the Reproach and Scandal, as if they did allow of that by doing the like. But the Case is extremely different, the one King being a well-resolv'd Protestant, the other a seduc'd Papist: *Charles* the First gave as great Assurances of his constancy in the Protestant Religion, by taking the Holy Sacrament publickly, and purposely, for the satisfaction of his Subjects, by disputing for it against Papists, by charging his Children against it a little before his death, and even then giving a full Testimony of dying in it. But *James* the Second, contrary to his Education, and his Royal Father's Charge, deserted that Religion, espoused Popery, and resolv'd to introduce it into his Kingdom, which he deserted rather than he would forego that Design. His Father lost his Life to preserve the Church and the Establish'd Religion, which King *James* industriously sought to destroy; and in Fact he had destroy'd the Government establish'd before he deserted the Kingdom. 2ly, There was a great disparity in their Actions; tho *Charles* the First was unhappily forc'd from the full Administration of the Government, and Protection of his Loyal Subjects, yet he kept within the Kingdom, and endeavour'd to assert his and his Peoples Rights; not by the Sword only, but by many Treaties and gracious Condescensions, such as satisfy'd all sober Persons even among his Adversaries, as by their too late Votes on that behalf appear'd. He did not declare that he was Absolute, and expected Obedience to his Commands, without any Reserve. He did not imprison his Bishops only for petitioning in a Matter of Conscience, as *James* the Second, and the Enemies of *Charles* the First did.

Fears

Fears and Jealousies, or very light Impositions on the People for urgent Necessities, were made the Ground of the War against *Charles I.* but real and intolerable Grievances, such as the Subjects could not bear, nor knew how to remove, were common in *K. James's* Reign. 3ly, There is a great disparity in the adverse Parties, *Charles I.* was oppos'd by his Subjects, *James II.* by a free Prince to assert a just Right. The better part of *Charles the First's* Subjects adher'd to him, and died for him; and at length the whole Body of the Nation being convinc'd of the Injustice of the War, recall'd *Charles the Second* to succeed his Father. And I hope no Man will compare the Benefits we have receiv'd by the present King's Proceedings, with the Mischiefs that we endur'd, while we expected greater, not only from the Usurpers on *Charles the First*, but the Transactions of *James the Second*. And such Persons do as surely deserve, as they will draw on themselves that Popery and Slavery which they abhor, who are not satisfy'd with that happy Deliverance which they now enjoy, and by their Thankfulness and Obedience to God and the King, may be confirm'd to them and their Posterity. So that I am well perswaded that they who engag'd against *Charles the First*, were highly criminal, and that they who (since *James the Second* deserted the Kingdom) shall ingage for him, are really peccant.

The second Consideration is, Whether the King having on these Grounds begun a War, and gotten quiet possession of the Kingdom, and by the People (acknowledging the Right of his Lady to the Succession on the Vacancy by Desertion) are proclaim'd King and Queen, have a just Title, and such as we ought to swear Allegiance to. As to the Vacancy of the Government I have said enough already; and all will grant, that if a Crown be forfeitable, ours was forfeited. Now in case of this Vacancy, the Right of Succession by our Laws is in the next Heir, which is the present Queen, and that she ought immediately to succeed (because by a Maxim in our Laws, *the King never dies*) and the sole Administration is to be in her; and therefore it is objected, That we cannot swear Faith and true Allegiance to any other. *Ans.* Seeing all Oaths and Acts that oblige the Subjects are in the Name of the Queen as well as of the King, we pay our Obedience where it is due; and this may satisfy the Conscience of every one, as to our present Condition at least, until there be a separation made. And if the sole Power should be devolv'd on the present King, the Consent of the next Heir being obtain'd, to whom is the Injury done? Not to the Princess *Ann*, for *volenti non fit injuria*; not to the People for the same Reason, they having express'd their Consent: but this hath its Precedent in the Case of *Henry the Seventh*, as is already said.

*R. W. and
Q. M. in
quiet posses-
sion of the
Crown.*

If in discussing the Right of Succession, a Question do arise concerning the primary Will and Intention of the People at the first Institution of a Kingdom, it is not amiss to take the Advice of the present People, *i. e.* of the Nobles, Clergy, and Commons, as *Camden* says of *England*, Anno 1571, 1572. *Grotius* l. 2. c. 7. n. 27. And the Equity of it seemeth apparent, that he who redeem'd the Crown, may wear it by Consent of the People, and the Consent of the right Heir: Nor can the People be blam'd for joining in such Consent, because it hath been thought a Duty in Gratitude, that such Heroes as have vindicated a People from Thralldom, and become great Benefactors to them, have been by Consent of the People acknowledg'd their Kings. So *Aristotle Polit.* l. 3. c. 10. n. 89. And in such a Juncture of Affairs, the whole Protestant Cause lying at stake, the Kingdom of *Ireland* being possess'd by Papists, and many Divisions in our own Nation, there is need of more than the Authority of a single Person. The Act of 13 *Eliz.* asserts it to be in the Power of the Parliament to alter or limit the Succession. And as to Matter of Fact, such Alteration hath been made; for in the Cases of *Q. Mary* and *Q. Elizabeth* the Succession was alter'd, because one of them was Illegitimate. Again, *Quod fieri non debuit factum valet*; The necessity of Affairs that inforc'd it, may speak much in defence of it: As *Josephus* says of the Jews submitting to the *Roman Emperors*, *That having submitted to them, they ought not to make resistance.* And if by tract of Time, an Empire which was unjustly acquired, may justly be submitted to, because of an implicit Consent of the People to such an Empire, I see no cause but the express actual Consent of a People to a Prince may justly oblige them. Such a Consent of the Senate and People to the *Roman Emperors*, was the ground of our Saviour's Injunction for paying Tribute, and of the Apostles requiring Subjection to them: And so we may conclude, as *Hushai* did, 2 *Sam.* 16. 18. *Whom the Lord and this People, and all the Men of Israel shall chuse, his will I be, and with him I will abide.*

Reflections upon the Opinions of some Modern Divines, concerning the Nature of Government in general, and that of England in particular.

With an APPENDIX containing,

- I. The Seventy fifth Canon of the Council of Toledo.
- II. The Original Articles in *Latin*, out of which the *Magna Charta* of King John was fram'd.
- III. The True *Magna Charta* of King John in *French*: By which the *Magna Charta* in *Matth. Paris* is clear'd and justify'd, and the Alterations in the Common *Magna Charta* discover'd. (Of which see a more particular Account in the Advertisement before the *Appendix*.)

All Three English'd.

The P R E F A C E.

TIS a strange and almost incomprehensible thing, that at this time there should be found so many discontented Persons among us; when but a little while since the whole Body of Protestants appear'd so unanimous, viz. at the beginning of the miraculous Revolution. Tho it hath already retriev'd the State from Ruin, and will without doubt prove its Happiness; it might easily be guess'd, that those who had contributed to the overthrow of the Laws, apprehending the Reward they had so justly deserv'd, would make up a Body of Malecontents, and that their Numbers would be considerable. 'Tis notorious also that in all times, those who think they are not consider'd or treated according to the Justice of their Merit, are ready to murmur against the Government; and the Ambition that possesses them, renders them every where a Race of discontented Persons. But whatever difference of Principles there might be among Protestants, the fear of their common Danger having reunited them, and made their Interests the same with those of the State and Religion, which they saw equally expos'd to inevitable Ruin, there seem'd but small ground to apprehend, that as soon as the fright was over, there should still be found a Generation of Men, whom their old Animosities, and habitual Prejudices, would engage in disaffection and murmuring against the Government. And yet it is but too true, that scarce did the State and Religion begin to breathe again, but immediately there appear'd a Party, who made it appear by their snarling, that what fill'd the generality of Men with Joy, and made them give Thanks to God, afforded them very small Satisfaction. I pretend not to tax the whole Body of the English Church: It is well enough known, that as their Settlement was furiously struck at by Popery triumphant, and observing no kind of Measures, her principal Members, as well as the generality of those that resort under her, have, and still do witness their Zeal for the Government, which God has been pleas'd to establish among us. I speak only of some certain Members of this Church, whom the Court has long employ'd in overthrowing, by their Maxims, the Foundations of the Publick Liberty, in order to a sure Establishment of Popery. Those Disciples of L'Estrange, the Pensioner and Drudg of a Popish Court, no sooner perceiv'd that what was like to happen upon James the Second's Desertion, would extremely expose them, as Men that had betray'd the Interests of their Religion and the Government, by Maxims which they had maintain'd with so much boldness, every where began to publish their Discontent, and still endeavour to inspire the same into the People, as founded upon pure tenderness of Conscience.

It cannot be deny'd, but that hitherto the Government has shew'd an extraordinary lenity <sup>Lenity of the Govern-
ment to-
wards Non-
swearers.</sup> in reducing them to Reason, whom Danger seem'd to have made wiser. The method and careful management which has been made use of to obviate whatsoever might afford them the least jealousy, or give them the least trouble, is an evident Mark hereof. But in fine, since they continue in their Mistakes notwithstanding all this care and tenderness, and that nothing will satisfy them; what can be more prudently undertaken, than to prevent the pernicious Effects which their Example, and the Maxims wherewith they are leaven'd, might produce in the minds of the People? We have this Satisfaction already, that the Publick is well aware they know not themselves what they would be at; for how free soever they may be to disperse their Murmurs and Disaffection, yet probably there is scarce one among them that would have James II. recall'd; neither indeed would it be so difficult a thing for them to find him out, in case their Consciences link'd them so closely to him as they would make us believe.

But we may have also another Satisfaction in this Point; which is, That in examining their Maxims in good earnest, we may make it appear, that they know not themselves what they affirm; and that the Opinions they have so long maintain'd, concerning the Nature of Government in general, and that of England in particular, are properly and truly a Heresy in Matters of State. Let no Man wonder that I call this Opinion of some of the Clergy of England, a Political or State-Heresy. Their Opinions respect a Political Question truly such; but these Gentlemen have been pleas'd to mould it into an Article of Faith forsooth of the Church of England; and their Aim was to make that pass for an Article of the Law, which indeed was no better than a dangerous Error in Policy. And truly all the Characters of Heresy so fitly suit these their Sentiments, that it is a hard thing to resist the temptation of giving them that Title. These Assertions are a perfect Novelty in Policy, as well as Divinity. Some late Writers have fully made out, that their Opinions are of little more than fifty Years standing; and it is true, that they are the fruits of Ambition: Consider whether all those that ever undertook the defence of them, did not do it to raise themselves in the Church, and to be promoted to higher Dignities than they could hope for from their Merit. Truth never employs any thing for its own defence, but the Light and Evidence which are so connatural to it; but would to God the Authors and Defenders of these Opinions had never practis'd any violent Means to make their Party triumphant, by which both Church and State have equally suffer'd, and been both reduc'd to within two Inches of their utter Ruin and Destruction.

I confess these Gentlemen have endeavour'd to delude the World, by alledging the Holy <sup>Non-swear-
ers abuse
the World
with their
false Rea-
sonings.</sup> Scripture and Fathers in favour of their Opinions. But herein they have behav'd themselves as the Hereticks do, in citing the Scripture and Tradition in defence of their Novelties; that is to say, wresting them to their own Perdition, as St. Peter saith; and making the Fathers speak what best pleaseth them, rendring them as pliable as the sound of Bells, which (according to the Proverb) do tink as the Fool is pleas'd to think. And this is that which I undertake to justify and make out by my Reflections upon this Matter.

To perform this with some method, I shall first of all explain the Original of the Power of Kings. Secondly, I shall examine the Extent of that Power. And thirdly, I shall consider the Remedy that may be justly oppos'd against the abuse of it. And in the Sequel shall make it my business to apply these general Matters to most of the Western Kingdoms; and shall make it evident, That there is no Pretext at all for the vast Pretensions of those who set no Bounds to the Power of Kings, and who believe that nothing but a Stoical and invincible Patience can lawfully be oppos'd to their Injustice and Tyranny.

And for as much as in examining these three Articles, I shall be oblig'd to oppose the Prejudices of some New Divines, I think my self bound to advertise the Reader, That it is not against their Character, but against their Opinions that I set my self; and that I do not in the least pretend, by entring into the Lists with them about a Political Question, to derogate in the least from their Authority, or to render their Knowledg in Theological Questions suspected. Tractent Fabrilis Fabri, Let Smiths keep to their own Anvil; for by their disregarding of this Proverb, they have wandred and lost themselves. They have cut the King lumping Pennyworths out of the Rights of the People, and imprudently made way for the establishing of that Tyranny, which would infallibly, in continuance, have destroy'd their Religion. We must therefore, if it be possible, oblige these Gentlemen to permit others to enjoy their Rights, and then the World will be happy. I am not ignorant that there be many among those who are dipt in this Opinion, that make a great shew of Virtue and Piety: But forasmuch as by this their Conduct they delude and hoodwink the People, it is but fitting to endeavour to prevent this ill Effect in defending the Truth. Shall we ac-

count the Rights of Truth the less certain, because they have escap'd the discerning of some honest and virtuous Men? or the Delusion the less dangerous, because proceeding from those that are such? Let it be lawful for us then to bring back these Men from their Wandrings, and to convince them that they ought no longer to defend Maxims, whose Falsity is not more visible than it is prejudicial to the Interest of the Church and Community.

Reflections upon the Opinions of some Modern Divines, &c.

CHAP. I.

Concerning the Original of Sovereign Power.

Sovereignty has no Foundation in Nature.

Magistracy and paternal Power in what different.

Authority not founded in natural Excellencies.

WE may assert, That the Rights of Sovereignty, to speak properly, have no Institution in the Law of Nature. A Father indeed has his Children in his Power, and they are subject to him by a natural Institution, as well because they have receiv'd their Life from him, which is the Foundation of all Good, as also for that they are beholden to him for their Education; which is another Life no less precious than the former. But tho this Power were not included within the narrow Bounds of each particular Family; and tho we should suppose it extended to the taking away of the Life of Rebellious Children, yet certain it is, that the Paternal Power is not unbounded with respect to Time: for as soon as a Man is married, and begins to form another Family, this Act emancipates him from the Paternal Authority, as Jesus Christ supposes, when he said to the blessed Virgin, *John 2. 4. Is not my hour come yet?* Which words *Greg. Nyssen* explains thus, *An nondum venit mea hora, quæ præbet ætati ut imperet, & sui sit juris?* Is not my hour come yet, which allows my Age to command, and leaves me at my own dispose? But the Case is not the same with Magistrates, whose Authority reacheth over a whole Society compos'd of several Families; for as they do not owe their Birth to the Magistrate, nor are oblig'd to him for their Education, as they are to their Parents, their Command cannot be founded on the Right of Nature, which subjects Children to their Parents.

Neither can we suppose that the Authority of Magistrates is bottom'd upon some Excellence they have by Nature above their Subjects. I own there be some Virtues and Talents which do ordinarily submit the Spirits of such as know them, to those who are adorn'd therewith; and the highest degrees of Virtue and Wisdom do naturally procure a Veneration for those that possess them. But who sees not, that this is insufficient to be the Foundation of Civil Power? A Magistrate is not always distinguish'd by these illustrious Talents and Qualifications, which so powerfully attract Veneration in particular. A Man may be very wise, and yet be ne'er the more obey'd by those who don't understand the price of Wisdom. He may be very valiant, but his Courage being unaccompany'd with Prudence, may render him contemptible in the Eyes of those who apprehend his Temerity. It is plain then, that it is not this natural difference God hath put between Men, which is the ground of the Magistrates Authority. Indeed, the same is the Case of Magistracy, as of the Ceremonial Law, which entred into the World because of Sin; for certainly if Men in their Behaviour liv'd up to the Precepts of the Law of Nature, one Man would never invade what his Neighbour is possess'd of, either by Inheritance, or by his own Industry: One Man would not defile the Bed of his Neighbour, or spill his Blood, to hinder the Opposition his Neighbour might make against his Enterprises. But because Men are so prone to violate those equitable Laws to satisfy their Passions and corrupt Inclinations, therefore is the Magistrates Authority become necessary.

And how great soever we may conceive this Authority to be, yet we must acknowledge, that God never instituted it till after the Deluge, as appears from *Gen. 9. 6.* We read in the Scripture, that *Cain* when he had kill'd his Brother *Abel*, told God, That he feared that every one that met him would kill him; but do not find that he did in the least apprehend that his Father, as his natural Sovereign, should sentence him for that Murder. This Impunity of *Cain* prov'd an encouragement to *Lamech*, as we see *Gen. 4. 24.* It seem'd indeed that the Authority of *Adam*, their common Father, together with that of the Patriarchs, might have been sufficient to contain Men within the Bounds of their Duty, as well as the near Relation and Alliance that was between them. But this Paternal Authority having by the space of fifteen Ages been found incapable to restrain the licentiousness of Men, and too weak to put a stop to their Debaucheries and Murders, which at last drew down the Deluge upon them; we find that God afterwards instituted Magistracy as a stronger Curb, to stop the impetuosity of Mens exorbitant Passions. Moreover, Men being oblig'd to separate themselves from one another, in order to their peopling of the whole Earth, consequently could not observe the same Principles of Communion which link'd them together under the Patriarchs; wherefore it was natural to substitute to that Patriarchal Authority, a Government more accommodated to the state of Men in their different and dispers'd Habitations. Wherefore because Men had learnt from the Example of those who were drown'd by the Flood, to make small account of the Remonstrances of their Parents, as well as of the Divine Denunciations, God thought fit to lay a more strong Curb in their Mouths, and to restrain them, by making temporal Death the Reward of those who would not be contain'd within the Bounds of their Duty by the fear of Eternal Sufferings, in these words, *Whosoever sheddeth Man's Blood, by Man shall his Blood be shed.* This being the sense and full import of this Declaration, according as the Jews unanimously agree. Now this granted, it is evident, that since Sovereign Power was instituted by God for a Curb to Sin, we must suppose that there be Laws which serve for a Foundation of Society, and for the Conservation of which Sovereignty was introduc'd at first: 'tis to make these Laws inviolable, and by Punishments to restrain the unruliness and exorbitance of the Passions of Men from transgressing those Laws, that the Sword at first was put into the Sovereign's Hand, and Power given him to punish Criminals, or utterly to cut them off as destructive to Society it self.

Patriarchal Power consider'd.

Cain's Case.

From these two Principles we very naturally deduce a third, *viz.* That the Character of a Sovereign consequently requires, that he who is clothed therewith, be one of the most perfect of the Society, that is one at the greatest distance from a disposition to violate the Laws: For if he encourages others by his Example to violate them, and if by this means he subverts the Foundations on which the Society subsists, directly crossing the Design and Aim for which he was made a Sovereign; it is evident to a Demonstration, that he possesses the Sovereignty contrary to the Intention of God, and the natural End of Society.

What the Character of a Sovereign requires.

Nothing is more evident, than what I have here laid down; but it respects only the Society, consider'd with regard to those of whom it consists: For if we look upon it with respect to those who are Strangers, and who may destroy it by invading it by force of Arms, it appears clearly that the Sovereign, being the Defender of Justice at home, finds himself naturally oblig'd to protect the Society by Force; so that together with Justice he ought also to be qualify'd with the Character of Valiant, that he may oppose himself with Success to all Enemies from abroad, and hinder them from destroying the Society.

And lastly, the Character of *Wise* is particularly requir'd in a Sovereign; for neither Justice nor Valour are of any great use, as long as they are separate from Wisdom and Prudence. Wisdom is useful in Peace, and no less in time of War is necessary with respect to Subjects as well as Enemies; she shines forth in Treaties as well as Ruptures; she is of use in the prosecuting of Injuries, as well as in the choice of means to obtain Reparation; she finds out Expedients against the greatest Difficulties; and, in a word, we may say, that without her the Political Government is as a Body without a Soul, and a Ship without a Pilot or Helm, which is abandon'd to the Winds to be toss'd at pleasure, and which at last perisheth infallibly by dashing it self against the first Rock it meets with.

Wisdom.

If we attentively heed what hath been here advanc'd, we shall find that this has serv'd as a common Principle to all the different Forms of Government, that have at any time obtain'd amongst Men. Indeed it is not easy to determinè what Form

No certain form of Government prescrib'd by God.

of Government God instituted by that Law mention'd in the 9th of *Genesis*, whether he by those words determin'd the Authority to one or more Magistrates, because the word *Man* is often taken collectively to express many: so that the Words are too general to decide this Question; they conclude only that Murder is to be punish'd with Death. From whence we infer, that the Magistrate has Power to punish Murderers and other Criminals that destroy the Laws, whereby the Society subsists. It is manifest therefore, that by Reason and Experience men came to prefer one kind of Government before another, and variously to divide the Authority amongst many, according to the different Acts to which it ought to be extended.

How Force
was us'd
at first.

It seems that Force was at first only made use of as a Refuge for the Weak, either to destroy the wild Beasts that devour'd their Cattel, and some times Men too; or to put a stop to the injustice of those, whose bodily Strength inspir'd them with Designs to rob the weaker sort of their Possessions. And it is very probable, that forasmuch as soon after they observ'd, that the Force which protected them might as well oppress the Society, for whose defence and protection it was arm'd, they found that Magistracy could not be look'd upon as an Advantage, if it were not committed to the wise conduct of the most antient of the Society, who seem to have been the Judges, Magistrates and Counsellors of State among all Governments, that were ever instituted with any prudence. Those who consider'd the great Parts that are necessary for the governing of a Society, prefer'd the way of chusing their Governors. Those who had experienc'd the ill Effects of corrupt Elections by Bribes or other ways, follow'd the way of taking for their Governors, the Children of those who had rul'd them with Prudence. They who observ'd that one Person is rarely capable of resisting and moderating so many different Passions as may trouble a Society, thought good to divide the Command amongst many. Those who took notice that this Equality produc'd Dissensions among many Governors, plac'd the Power in one Person only. Those that were aware that a single Person might overturn the Laws, and set up his Will as the only Rule of his Conduct, found it necessary to preserve to the People their share in the Government. In a word, every Nation chose that way they thought most sure and proper to obtain the true Ends of an happy Government, in order to secure and preserve the Society.

Inferences
from what
went be-
fore.

What I have said in general concerning the Original of Sovereignty or Magistracy amongst Men, shews that it cannot be deny'd, but that the Institution thereof is Divine, tho God did not think fit to determine it to any certain Form of Magistracy, whether of Monarchy, Aristocracy or Democracy, but left it to the Peoples free choice, to pitch upon that Form they should judg most convenient for them. But to procure a farther Light in this Matter, we must consider the Judgment of Philosophers and Divines concerning this Point.

CHAP. II.

The different Opinions of Philosophers and Divines concerning this matter.

St. August.
de Civit.
Dei.

IT may be said, That there are three Opinions concerning the Original of Sovereign Magistracy. *Cicero* in his Books of the Commonwealth was of opinion, as appears from the definition he sets down, That Governments were at first form'd by an effect of pure Necessity, which forc'd the weaker to seek for Aid and Succour from those that were stronger, to secure themselves from Oppression. This was also the Opinion of the famous Archbishop of *Burgos* in the Council of *Basil*. *Fascic. Fol. 7.*

Authority
of the
Sword
whence de-
riv'd.

The Body of Christian Divines maintains, That the Authority of the Sword was instituted by God, as may be seen *Gen. 9.* And it appears, that whereas before the Deluge the Patriarchs were the only Masters of their Families, which gave occasion to abundance of Crimes, Justice not being executed with Rigour enough to put a stop to the course of Exorbitances, as long as it was in the hands of a common Father; God was pleased to enact a Law whereby the Sword should no longer be bound up to each Head of a Family, but committed to one who should be particularly charg'd therewith by the common Consent of the Society.

The

The Third Opinion is that of some new Divines, and other Flatterers of the unbridled Power of Princes, who maintain that Kings derive their Authority immediately from God, and not mediately from the Consent of the People. Thus *Peter de Marca* declares himself on this Point, *de Concord. lib. 2. c. 2. v. 1, 2, 3.* following therein the Sentiments of *Victoria* and *Duval*, the one a *Spaniard*, and the other a *Frenchman*.

We need not wonder if *Cicero* was mistaken in the deciding of this Matter, as being destitute of that Light which *Moses* furnisheth Divines with. He determines this Point only as a natural Philosopher: However we must observe that *Cicero* himself, and the most wise amongst the Heathens, have sufficiently given to understand, that they conceiv'd Magistracy, without which it is impossible for a Society to subsist, to be of Divine Original, as well as all other good and profitable Institutions for the benefit of Mankind.

But not to insist upon this, forasmuch as all Divines agree, that the Original of Magistracy is from God, our business only is to enquire which is the truer Opinion; Theirs who, acknowledging the Divine Institution of Magistracy, maintain that this Authority is communicated to the Powers and Magistrates by the People; or of Those who pretend that God immediately communicates the same to the Magistrates that are invested therewith. The Question stated.

In order to the resolving of which, before we pass any further, we are to observe;

First, That the Body of Divines who defend the former of these Opinions, do agree, That the Authority of Magistrates is not to be accounted less Divine, because it does not immediately come down from God. They own these two things: Position 1.
1. That God has order'd there should be Sovereign Magistrates to regulate and govern Societies. 2. That God having divested private Persons of the Right of doing themselves Justice in case of Offences given them, has ordain'd that the Magistrates should have the Sword put into their Hands, by Capital and other Punishments to stop the violence of those who disturb the Peace of the Society, and violate the Rules of Justice. And in this respect they acknowledg Magistracy, *θεῖον κτίσιν*, a divine Settlement and Institution.

Secondly, We are to observe, That when on the other hand they maintain, That the Power of the Magistrates is confer'd by Consent of the People, in which respect they pretend that *St. Peter* calls them *ἀνθρώπων κτίσιν*; that doth not in the least diminish the Authority of this Divine Institution of Magistrates, which they refer solely and immediately to God. 2.

Thirdly, That whatsoever Notion we may frame of the Power of Magistrates, whether we suppose it confer'd upon them immediately by God, as *M. de Marca* pretends; or whether it be only mediately deriv'd to them from God by the intervening Consent of the People, the thing is still the same; because it is evident, that this Power is not communicated to them but for the subsistence of the Society, the preservation whereof is the natural End of Government and Sovereignty. 3.

Fourthly, That they do not oppose this Notion of the immediate Collation of the Sovereign Power by God, save only that they might express themselves more exactly, and distinguish the ordinary Governments of the World from the Kingdom of *Israel*. For the same Divines generally own, That the Institution of the Royal Power in *Israel* was an immediate Act of God; but withal maintain, that the same cannot be said of other Sovereigns. 4.

This laid down, I say, that nothing can be imagin'd more vain than the second of these Opinions; and it is enough only to understand the Terms which those Divines make use of to express their Sentiment concerning the Original of Sovereign Magistrates in every State, and to consider the Proofs they alledg to evidence the falseness of it; which Opinion accordingly I shall refute in the following Third Chapter. Inference.

C H A P. III.

That Sovereigns do not receive their Power immediately from God.

No Sovereign Power immediately from God.

Argument
I.

I Say then, That it is false, That Sovereigns receive their Power immediately from God. This is a truth may be easily made out. Indeed, tho the Power of Magistrates, of what sort soever they be, be of divine Institution; which of all the present Sovereign Powers, whether Monarchs, Commonwealths, or any other form of State, was instituted immediately by God? And who are the Persons invested therewith, whom God has immediately called to that sort of Power? All States are formed either by Conquest, or by Consent of the People, which intervenes in the Election at the first founding of a State, and which is renew'd in every subsequent Election of Princes, or which is perpetuated in successive Kingdoms. Was there any thing like to this in the Advancement of *David* to the Royal Dignity?

Arg. 2.

Secondly, Is it not visible, that in order to an immediate Establishment from God, there is requir'd an express Revelation, such as may be equivalent at least to a publick declaration of his Will, in favour of him whom he will set on the Throne? Thus things were carry'd with respect to *Saul* and *David*; and who will affirm there is any King now in the World that has attain'd the Regal Power after this manner? If there be any, let them acquaint us with his Name, and the manner of God's revealing himself to the People, to make them know that he immediately made choice of such a Person to supply that place.

Arg. 3.

Thirdly, Who sees not that the whole Discourse of these Divines is nothing but a continual Equivocation? An Office is instituted immediately by God; wherefore all that are call'd by ordinary Ways and Methods, are immediately establish'd in it by God. I had as lief they should tell me, that because Marriage derives its first Institution and Beginning from God in the Person of *Adam* and *Eve*, whom God joyn'd together, that therefore all Marriages are made immediately by God, and that he is the immediate Author of them: The one is every whit as reasonable as the other, and in the mean time the second is absolutely false. The Author of *Ecclesiasticus* saith, *Chap. 7. 16.* That the Art of Tilling the Ground was created by God. Doth it follow thence, that God hath immediately settled such and such a one in the Calling of Husbandry?

Arg. 4.

Fourthly, If all Sovereign Magistrates derive their Institution immediately from God, how is it that we find so great a diversity in the Form of these Sovereign Governments? In some States we find Kings, in others Aristocracies or Democracies: Doth not this Variety make it evident, that tho God indeed hath instituted Magistracy in general, yet he hath left it to the People to determine the Form of it according to their Need, their Inclinations, and the Circumstances wherein they find themselves?

Arg. 5.

Fifthly, Doth it not most evidently appear, that if the Person were immediately instituted by God, it would be great folly for any Society to trouble themselves about enacting Laws for a free Election at every Change, or to establish it by way of Succession in Monarchies? If God establisheth all Sovereign Magistrates immediately, to what purpose are all those Rules and Limitations, which by their Variety afford us a sufficient Demonstration, that this Institution is not an immediate effect of the Deity?

Different Opinions the Cause of various Governments.

The Philosophers were fully of this Opinion, as we may see in the Books of *Aristotle's Policy*; where he makes out, That the Cause of the various sorts of Governments that are in the World, is nothing else but the different Judgments of the People concerning the several sorts and manners of Government: Some of which have chosen one Form, to avoid the Inconveniences they foresaw and apprehended from another; and others again were induc'd to embrace that Form, by the Advantages they discern'd in it, rather than another. This is a Matter we ought to mind very carefully, that we may not put a ridiculous Sense upon some Expressions of the Antients, when they speak of Magistracy as founded in the Law of Nature.

Lawyers.

The Lawyers agree with the Philosophers in this Point. *Ulpian* and *Justinian* both of them tell us, That the People of *Rome* bestow'd upon the Emperor *Augustus*, by the Royal Law, all the Right and Empire by which they were subjected unto that Emperor, *Lib. 1. ff. de Constit. Princip.* *Theophilus* explains what properly a Prince is,

is, in these Terms; *A Prince* (saith he) *is a Person who has receiv'd from the People the Power of Commanding and Ruling over them.* Sect. 6. de Jure Natur. & Gent.

The Canonists of the Church of *Rome* are no less express in this Matter, than *Canonists* the Philosophers and Lawyers. Cardinal *Bertrand* lays it down for his Foundation, in his Treatise of the Civil and Ecclesiastical Power, *Bibliotheca Patrum*, which was copied by an *English* Monk, and is found among the Manuscripts.

The Divines of that Communion make a Principle of it, as appears by the Discourse of the Archbishop of *Burgos*, which I have before cited. And *Soto* saith, *Popish Divines* Lib. 4. de Just. & Jure, *Regalem potestatem Populi naturali lumine crexerunt*, That the People by the Light of Nature establish'd Kingly Power.

M. de Marca owns, That the Canonists of his School do not favour his Opinion; but withal maintains, that they have fall'n upon the Opinion contrary to his, that they might make a greater difference between the Civil and Ecclesiastical Power than there is indeed, and to depress the Civil Power below the Ecclesiastical. He might also have alledg'd against the Divines of his School, That in this Question they rely'd too much on the Judgment of *Aristotle*, who was their *St. Paul* until the Times of the Reformation. However, that which *M. de Marca* declares as his Judgment concerning this Matter, is too generally spoken: For we see *Marsilius* of *Padoua* following the same Principles, in his *Defensorium Pacis*, tho he undertook the Defence of the Emperor *Lewis* of *Bavaria*, against the Enterprises of the Pope; but however he pretends, that the Scripture and Antiquity furnish us with quite other Notions about this Matter, which we shall next make it our business to enquire into.

CHAP. IV.

An Examination of the Arguments which are alledg'd for the proof of this Opinion.

HE alledges only two places of Scripture, the one is that of *St. Paul*, *Rom.* 13. and the other is taken from the Sixth Chapter of the *Wisdom of Solomon*, which is an Apocryphal Book; but neither the one nor the other proves the thing he pretends. *Arguments from Scripture examin'd.*

It appears by the former of these Texts, that the Apostle endeavours to oppose the Opinion of those among the Jews, who pretended, that because the Monarchies or States of the Heathens had not an immediate Institution from God, as that of *Israel*, to which God had in a peculiar manner subjected the Jews, that therefore they were not oblig'd to submit themselves to the Authority of Heathen Magistrates. Wherefore he points them from that immediate Institution made in favour of the Kings of *Judea*, to that common and more antient Institution of Magistracy among the Posterity of *Noah*, which *Moses* sets down *Gen.* 9. as being sufficient to make the Authority of Magistrates respected, whatsoever Nation or Religion they might be of; whether they deriv'd their Power from the Consent of the People, or whether they had obtain'd it by robbing the lawful Sovereigns of their Authority, as the *Romans* had done with respect to the Kings of *Judea*. In a word, the Apostle in that place intends nothing else but to authorize the Maxim of the *Essenians*, as it is related by *Josephus*, Lib. 2. de Bello Jud. cap. 12. *Fidem omnibus servare, maxime vero principibus*, Οὐ γὰρ δὲ δὴ αὖτε οὐδὲν ἀδυνατοῦν τινα τὰς ἀρχαίς, to be faithful and true to all Men, but more especially to Princes; because the Sovereign Command never befel any one without the Divine Providence. These *Essenians* maintain'd against the Sect of the *Pharisees*, that they might lawfully submit themselves to a Heathen Conqueror, without always fostering a Spirit of Rebellion against him, and without disputing or questioning his Authority, under pretext that the Jewish Government had been establish'd immediately by God. But doth this Text of *St. Paul* in the least prove, that every Pagan Prince was immediately set upon the Throne by God?

The Passage quoted from the sixth Chapter of the *Wisdom of Solomon*, is nothing at all to their purpose; because the Author of that Book addresses himself, in all appearance, to the Kings of *Judea*, who, as all agree, deriv'd their Accession to the

Throne immediately from God ; so that it might well be said to them, *Power is given you of the Lord, and Sovereignty from the Highest.*

All Power
how from
God.

True it is, that Jesus Christ expresseth himself in words much to the same purpose, *John 19.* speaking to *Pilate* the Governor of *Judea* ; *Thou couldst have no power at all against me, except it were given thee from above.* But it is visible that he speaks this only with respect to the Order of the Divine Providence, which had suffer'd the Throne of *Judea* to be overthrown by the *Romans* ; so that instead of her natural Magistrates, she was now subject to Strangers. The Empire of *Nimrod* was founded in the same manner with that of the *Romans*, and yet I scarce think any Man will pretend, that God committed the Sovereign Power to him, in the same manner that he did vouchsafe it to *David*.

How Cyrus
call'd the
Lord's Anointed.

True it is, that the Scripture gives *Cyrus* the King of *Persia* the Title of the *Lord's Anointed* ; which seems to import, as if God had in an immediate manner rais'd him to the Throne like *David* : But this is no due Consequence ; for the Notion of the *Lord's Anointed*, signifies only his particular Destination of him, to be the Instrument of the Jews deliverance from their Captivity. I freely own, That a Divine Providence may ordinarily be observed in the Elevation of Kings ; and that the same may be taken notice of, as intervening in a more especial manner, in the raising of those Kings whom God designs to make use of for the good of his Church, which is linked with the Civil Society : But I do not conceive that from thence it will follow, either that the acts of ordinary Providence, manifesting themselves upon occasions, are sufficient to make an immediate divine Institution of Princes, no more than other Events, wherein Providence intervenes, can properly be call'd immediate effects of the Deity ; nor that the extraordinary Acts of Divine Providence, as were those that respected *Cyrus*, ought to be alledg'd as an Argument in common Events.

The words we find in the eighth Chapter of *Proverbs*, are also commonly quoted to this purpose, *By me Kings Reign, and Princes decree Justice* ; but it is manifest, that this is said with regard to Wisdom, of which he was speaking before, and which displays it self in the management of Humane Affairs, without intimating any immediate Act of the Deity.

Scripture
Expressions
about Ma-
gistracy ex-
plain'd.

Moreover we are carefully to observe, that tho the Scriptures attribute to God the Institution of Magistrates, in which respect also they call them a Divine Institution, and ascribe to God the Exaltation of Princes in particular ; yet they never express themselves but in a very general manner, as when they set forth to us the part God bears in all Events. Thus God is said to overturn Thrones, in like manner as he is said to erect them ; he is said to settle Tyrants, as well as the most lawful Kings : All which Expressions relating to his Providence, which does or permits things by the intervening ministry of second Causes, can have no influence upon the Judgments we are to make concerning the Authority of Princes, with regard to their Divine Institution.

Proofs
from the
Fathers
consider'd.

M. de Marca makes use of some Passages out of the Fathers, to confirm his Opinion. But, First, they infer nothing but what we are ready to grant, viz. That God having ordained Magistracy, those who are invested therewith, ought to be consider'd as the Ministers of God ; which is sufficient for a Foundation of their Authority, without any necessity of supposing, that God immediately endows every King with the Royal Power, wherewith he is invested. This is the Opinion of *Theophilus* Bishop of *Antioch*, *ad Autol. Lib. 1.* where he saith, That the Prince has received in some sort from God the administration of the Government (*τρεφω τον*) which expression doth visibly respect a mediate Institution, but doth not at all express an immediate Institution, as *M. de Marca* conceives. Secondly, They distinctly lay down, That Magistracy is a humane Institution, as *St. Peter* qualifies it, because all Magistrates and Kings themselves are ordain'd, and establish'd by Men ; as *Oecumenius* explains that place, *1 Pet. 1. 2.*

St. Irenæus.

St. Irenæus says no more, *lib. 5. contr. Hæ. C. 24.* He refutes the Opinion of the *Gnosticks*, who would have Magistrates to be an institution of the Devil ; and he makes it appear, that both the Old and New Testament confirm, that Magistrates are one of the means which Providence has judg'd necessary to put a stop to the Current of Wickedness and Crimes, which had deluged the Heathen World, whom the fear of God alone was not able to keep within the bounds of Justice. To which purpose he saith, *Cujus jussu homines nascuntur, hujus jussu & Reges instituuntur* ; by whose command Men are born, by his command Kings are ordained. Neither doth

Epi-

Epiphanius advance any thing more than this. *Hæresi* 40. *contra Archontic.*

Tertullian expreſſeth himſelf to the ſame purpoſe, in his *Apologet. cap. 30.* *Inde* *Tertullianus*
eſt Imperator, unde & homo antequam Imperator; inde poteſtas illi, unde Spiritus. Thence
is the Emperor, from whence Man is before he was Emperor; thence he has his
Power from whence he has his Breath.

St. Chryſoſtom exactly follows their footſteps, as well as *St. Iſidore* Biſhop of *Peluſi-* *St. Chry-*
um, Lib. 2. Epist. 206. Indeed how could *St. Chryſoſtom* teach any other Doctrinẽ, *ſoſtom:*
who in his 23. *Hom.* upon the Epistle to the *Rom.* plainly aſſerts, That Jeſus Chriſt
never gave his Laws with deſign to overturn the received forms of Government?
ὅτι ἐπὶ ἀνατροπῇ τῆς κοινῆς πολιτείας and expreſſly denies that thoſe words in the
13. Chap. of the Epistle to the *Romans*, *For there is no power but what is of God*,
muſt be underſtood concerning Government in general, and not of thoſe who are
inveſted therewith. *Quid dicis, Omnis ergo Princeps à Deo conſtitutus eſt? Iſtud, inquit,*
non dico. Neque enim de quovis Principe ſermo mihi nunc eſt, ſed de ipſa re. Quod
enim principatus ſunt, quod iſti quidem imperant, iſti vero ſubjecti ſunt, quodque non ſim-
pliciter ac temere cuncta feruntur . . . divinæ ſapientiæ opus eſſe dicit. Propterea non
dicit, Non enim Princeps eſt niſi à Deo, ſed de re ipſa diſſerit dicens; Non enim Potestas
eſt niſi à Deo. What do you ſay then, that every Prince is conſtituted by God?
No I don't ſay ſo, for I am not ſpeaking here of every particular Prince, but of the
thing it ſelf. For that there are Principalities, that ſome rule and others obey, and
that all things are not carried raſhly and without order; this the Apoſtle declares to
be an effect of the Divine Wiſdom. Wherefore alſo he does not ſay, *for there is no*
Prince but who is of God, but, *for there is no Power but what is of God.*

St. Auguſtin de Civitate Dei, Lib. 5. cap. 21. holds forth no other Doctrinẽ. *Qui* *St. Auguſtin.*
Auguſto Imperium dedit, ipſe & Neroni; qui Veſpaſianis, vel Patri vel Filio, ſuaviſſimis
Imperatoribus, ipſe & Domitiano crudeliſſimo. He that beſtow'd the Imperial Dignity
upon *Auguſtus*, gave it alſo to *Nero*; and the ſame who advanc'd the *Veſpaſians*,
Father and Son, moſt beneficent Emperors, exalted alſo the moſt cruel *Domitian*.
All which expreſſions do evidently refer to nothing elſe, but the Order eſtabliſh'd
by the Divine Providence, without, in the leaſt, deciding the Queſtion in contro-
verſy.

Neither do I find that the Biſhops of *France* entertain'd any different Opinions
concerning this matter, when they repreſented to *Lewis* the Good, the greatneſs and
importance of his Dignity, and the neceſſity that lay upon him to afford Juſtice to
all his Subjects, becauſe he owed his Sovereign Dignity to God himſelf and his
Predeceſſors. *Quapropter, ſay they, quiſquis cæteris mortalibus temporaliter imperat,*
non ab hominibus, ſed à Deo commiſſum ſibi regnum credat. Multi namque munere Di-
vino, multietiam Dei permiſſu regnant. Wherefore whoſoever temporally rules over other
Men, ought to think his Kingdom committed to him, not by Men but by God. For many
do reign by a Divine Grant, and many only by Divine Permiſſion. Which words were
uſed by them, only as a motive to oblige that Emperor, not to look upon the Roy-
al Dignity as an Inheritance or Poſſeſſion, but as a Charge or Office inſtituted by
God, of the Adminiſtration whereof he was to give an account to God. *Concil.*
Pariſ. Lib. 2. cap. 5. Anno 829. The Fathers alſo of the Council of *Troſſy*, ſimply
declare, that the Royal Dignity was inſtituted by God, when the Apoſtle ſaid, *Be*
ſubject to the King as chief; which would be a ſtrange Concluſion, if he had not had an
Eye to the Inſtitution of the Office, and not to the immediate Inſtitution or Conſe-
cration of the Perſon.

I know it has been cuſtomary for Emperors and Kings to look upon themſelves *Flattery of*
as choſen of God, crowned of God, &c. which hath given occaſion to ſome Painters *Emperors.*
and Gravers to repreſent them, as receiving their Crowns from Heaven. I am not
ignorant alſo that the Emperor *Lewis* of *Bavaria* maintains, that the Imperial
Power and Authority is immediately from God, and not from the Pope; but his
firſt expreſſion reſpects only the order of Providence, and the ſecond the Pope's
pretentions, who maintain'd that Emperors held the Empire as a Fief, whereof the
Pope was the Lord Paramount.

After all, thoſe Gentlemen, who attribute to every Sovereign Magiſtrate and
to every King, the Power which they enjoy, as immediately confer'd upon them by
God, think by this means to lay a more ſure Foundation for the Veneration which the
People owe to the Royal Power; it is very evident that they advance little by this
their Opinion, if it be true, that this Power, tho we ſhould ſuppoſe it granted
immediately by God, muſt be limited by certain Laws, and that the People have
right to impoſe them upon them, when they elevate them to that Dignity.

C H A P. V.

Whether the Power of Sovereigns be Absolute and Unlimited.

Nature of
absolute and
limited
Govern-
ment con-
sider'd.

IT is commonly conceiv'd that there are two sorts of Government, the one Absolute, and the other Limited: Absolute Government is supposed to be that, wherein the Governor doth so absolutely enjoy all the Authority necessary for the subsistence of the Society, that none share with him in it, so that he exerciseth it according to his good pleasure. In such a Government as this, the Prince can make Laws, and again revoke or dispense with them. He can settle inferior Magistrates, and discharge or remove them again at pleasure, and repeal their Acts or Decrees. He can declare War against the Enemies of the State, and make Peace with them. He can save the Lives of Criminals, or take them away: all which he may do without any one having any right to contradict or oppose him. Neither is there any thing contrary to the Nature of Government, in this absolute Power: for since it is necessary to make Laws for the good of the State, according as there is need; to nominate Magistrates, and to remove them; to examine the Judgments of Inferior Courts, and repeal them, if they be unjust; it is a thing indifferent to the State, by whom these things are done, so they be but done in such a manner, as to answer the natural end of Government, which is the good of the Society.

But we must take heed of conceiving any such absolute Power inherent in any Sovereigns whatsoever, whereby they may lawfully frustrate and overthrow the ends of Government. For how absolute soever a Prince may be conceiv'd to be, yet can he not be so in all respects: For first he is subject to the Divine Laws, as well as the meanest of his Subjects. Secondly, He is subject to the Laws that are founded on the Right of Nations. Thirdly, He is obnoxious to the fundamental Laws of the State, which he governs. Fourthly, He lies under an Obligation of following the Laws of the Government committed to his charge, so far as to endeavour to obtain the ends thereof, by procuring the happiness of the Society.

Tyranny is
no Govern-
ment.

But if any Man conceives a Government absolute in all respects, and whereof the Sovereigns are not bound up by the four Tyes abovesaid, he imagines an illegal and monstrous Government; neither can there be any such, but the Tyrannical, which is no Government at all. For seeing Tyranny is diametrically opposite to the natural end and aim of Government, I do not see how it can be rank'd with lawful Governments; there being as much absurdity in supposing it such, as to suppose an unjust and impossible Law, to be a good and true Law, because published by one who has the Authority to do it.

No absolute
Power in
all respects.

I cannot find that ever there was any Empire or Authority absolute in all respects, as is pretended. Those very Sovereigns who are conceiv'd to be absolute to this degree, as those of the *Medes* and *Persians*, had notwithstanding some irrevocable and inviolable Laws, which were fundamental to that State; as appears from the Book of *Daniel*. *Aristotle* seems to speak of these sorts of Government, *Polit. Lib. 3. 210.* where he distinguishes them from a Tyrannical Government, forasmuch as they were establish'd upon some fundamental Laws or Customs. And I very much question, whether any such example can be produc'd, no not in the Empire of the *Turks*, which has been always lookt upon as the most Absolute and Despotical Government, where the Sovereigns have attributed to themselves so vast and unbounded a Power, and actually enjoy'd the same.

Nimrod.

Conque-
rers.

I know it is commonly apprehended, that Conquerors, such as *Nimrod*, and many others, did in so absolute a manner possess themselves of all the Rights of Sovereignty, that there was nothing left to their Subjects of what Rank or Order soever. But to declare my sense of this matter, we are to observe, First, That Conquerors had no other aim, but to rob other Sovereigns of their Power, without changing any thing in the Government of the State they had invaded. Secondly, That those Invasions have no other Foundation, but a Conquest by force of Arms and Violence, contrary to the Law of Nature; which made *Seneca* call this sort of Conquerors *magnos & furiosos Latrones*, great and furious Robbers. These Conquerors easily perceiv'd, it was necessary for them to trim and rectify this their unjust Power, if they would have their Authority to be lasting: whereupon they accordingly took care to moderate it by Conventions and Laws, to the Justice of which the People

People gave their Consent. Thirdly, That these Conventions and these Laws were, to speak truly and properly, the lawful Title of all the Authority their Subjects own'd in them. Fourthly, That this Consent of the Subjects always supposeth, that the ends of Government be preserv'd, except we should persuade our selves, that there be Subjects Fools enough to consent to a Government, whose aim should not be level'd at their Advantage and Prosperity.

'Tis horribly to delude ones self, to found the Idea of an Absolute Government in all respects, amongst Men, upon a notion of the Absolute Empire God has over all his Creatures: for is it not evident that this Divine Empire supposeth an immoveable Justice, and infinite Wisdom, and a most tender Love for his Creatures, which are the Essential Attributes of God, and which cannot be found in any mortal Man? But some, it may be, will tell me, that I contradict the Stile of Holy Scripture, in denying that Tyrants can lawfully enjoy so absolute a Power, when the Prophets tell us, concerning some Kings, that God gave them such absolute Power: as we find it exprest in particular concerning *Nebuchadnezzar*, *Dan. 5. 18, 19.* But the Answer to this Objection is obvious: First, That which ought to be refer'd to God's Permission only, is not to be attributed to a concession of the Deity, which latter is only sufficient to establish a Lawful Right; for otherwise, we must say, That God had given a just right to the false Prophets to deceive *Ahab*, by their lying Oracles. If this be not the case, let any Man answer me these two Questions: First, Whether *Nebuchadnezzar* sinned, in using this absolute Power, which he had, without any consent or concurrence of his Subjects, in killing them without cause, and contrary to the Laws of Justice and Equity? Secondly, Whether God cou'd justly punish *Nebuchadnezzar*, as he did, for making use of this Tyrannical Power, which he had suffer'd him to invade? *Nemini injuriam facit qui juri suo utitur.* He that makes use of his own Right injures no body, is a Maxim of Law.

Absurdity of pretences to absolute Power.

Nebuchadnezzar's consideration.

Secondly, Otherwise we should be fain to suppose, that those who at any times have rais'd themselves against Tyrants, had been great Criminals; whereas the Holy Scripture doth set them forth for Heroes, such as *Ehud*, who have undertaken to rid the world of their unjust Oppression, by killing them.

Possibly it may be further objected to me, that by these Assertions I oppose the Doctrine of the Old and New Testament, which equally command all both Jews and Christians to submit themselves to the Powers that had conquer'd them, and particularly to the Power of the *Romans*, who pretended to be absolute over all their Subjects. But it will be found that there is nothing at all of any Contradiction between that which I maintain, and what is here objected. The Jews being conquer'd by *Nebuchadnezzar*, were become the Slaves of that Monarch, and ow'd him all manner of Obedience, which Bondmen do to him who has sav'd their Lives, when it was in his power to kill them. And for the rest, the Scripture does not determine, whether the Tyrannical power they attributed to themselves, be lawful or no. Sure it is, that an unlawful and Tyrannical Sovereign may rule legally in several respects; in which case, it imports little to those who are subject to it, contrary to their wills, whether the Power, under which they are, be lawful in all respects or not.

Objections from Scripture answered.

Let this therefore be laid down for a certain Truth, that every lawful Power is necessarily limited by Laws; that these Laws are the Foundation of the Government, from which the Sovereigns cannot depart, without overturning the Society, for the subsistence of which the Political Government was at first instituted by God.

All lawful Power is limited.

But this is not the only kind of Limitation, which may be observ'd in the Powers that govern Societys. As God has not prescrib'd any sort of Government, in preference to others, the Wisdom of Men hath diversly limited the way and constitution thereof. Most People finding by Experience, that Monarchy, tho it have many advantages before other Governments, is apt to degenerate to Arbitrary Power, thought it fitting that the greatest Lords of the Community should concur with the King in the exercise of his Authority: Others again were of opinion, that the People ought to have the chiefest share in the Government, forasmuch as the main end of the Government is to make them happy. These different Apprehensions of Men have establish'd the several forms of Government; the aim of those, who contriv'd those different forms, being only to prevent oppression and injustice, which directly cross the end of Government.

C H A P. V.

Concerning the Extent of the Power of Sovereigns.

WHat I have here set down concerning the Nature of Governments, the most Absolute of which are not unbounded by the Laws of God, by the Laws which constitute the Right of Nations, by the fundamental Laws of the State, and more particularly by Bounds prescrib'd to the Authority of Sovereigns, sufficiently shews what is the just extent of Sovereign Power, and how far Men are oblig'd to yield Obedience to it. Indeed forasmuch as Authority and Obedience are relative terms, which reciprocally establish or overthrow one another, it is easy to judg, that Obedience cannot be due to Authority, but in proportion to the Extent of the Authority.

*Paternal
Authority
and its
Extent.*

Paternal Authority, in the manner as God had establish'd it under the Law, could not inflict Death upon a Son, but in the presence of the Judges, and upon the hearing of Witnesses. The Authority of a Judg cannot be discharged, but in the due Forms of Judicature, and according to the Laws; he cannot punish a Criminal extrajudicially, notwithstanding he might have absolute knowledg of his Offence.

This laid down, and there is nothing more evident, it will be easy to determine how far the Obedience of Subjects is engag'd in the various sorts of Government under which they resort.

As to those Governments, or Powers, which have no other Law but their own Will, whether at first they were rais'd by way of Conquest, which seems to reduce Subjects to the condition of Slaves; or whether from lawful Governments they have by degrees degenerated into Tyranny by the Injustice of Sovereigns; we ought naturally to distinguish between the use these Powers make of their Authority, and their abusing of it, by rendring their Authority unlawful, and extending it beyond its just limits. The Captain of a company of Highwaymen, who is a Father, may exact of his Son the Obedience which a Child owes his Father; but his quality of Captain of Highwaymen, does not give him any right to command his Son to rob or murder: And so far is the Son from being oblig'd to obey such kind of Commands, that he becomes Criminal by obeying them.

*Princes
acting by
Law to be
obey'd.*

It is evident then, that in these sorts of Governments, as long as the Prince enacts Laws conformable to the fundamental Laws of the State, and that he behaves himself as a Father of his Country, there lies a necessity upon the People of obeying him; and this Necessity is founded upon their Relation to the Authority, which is just and legal, with respect to its Function and Exercise.

But we must judg otherwise, when the Question is of unjust Laws which the Power enacts for the Oppression of his Subjects: for then there seems no further necessity of obeying, to lie upon the Subjects, than what results from a desire of avoiding their own destruction, which depends on the Pleasure of the Power that oppresseth them, which cannot settle a lawful Right on Tyrants, other than such as a Master may have over his Slave or Bondman, according to the Laws of Servitude.

*Govern-
ments
bounded by
fundamen-
tal Laws.*

And as to Governments which are bounded by fundamental Laws, it is apparent, that the Powers having no Authority at all, but according to the Laws whereby they are establish'd, their Subjects are set free from obeying them, as soon as they transgress those Laws. If a King, who has no Power to make Laws, will of his alone Authority undertake to publish any, without the concurrence of those who share with him in the Legislative Power, none of his Subjects are oblig'd to obey him. If a King, who has no right to lay any Taxes on his People, undertake to charge 'em with Impositions, the People are not oblig'd to pay ought of them. If the King, who has no Power to declare War, doth it without consent of the State, the People are not oblig'd to go to War.

*In what
cases Obe-
dience may
be refus'd.*

Nothing is more visible, than that Obedience may yet more justly be refus'd when Sovereigns undertake to overthrow the State, in dispensing with all the Laws, and in attempting to rule by an Arbitrary Power: whereas the fundamental Laws of the State, which are the Bond of the Society, do only allow them a limited Power.

Hither-

Hitherto our new Divines agree with others, that Subjects are dispens'd with from giving Obedience to an Illegal Power. But for as much as a State must necessarily perish, when subject to a Power that is resolv'd to overthrow all; the Question is, What may be expedient and lawful for People to do in this case?

There are but two means imaginable to remedy so urging an Extremity: The one is to resist the Power that abuseth his Authority, thereby to oblige him, for time to come, to keep himself within the bounds that are set him. *Two Ways to resist a-bus'd Power.*

The other is to reject him altogether, and to rid themselves of him, when there appears no probability of reducing him to the terms of Justice, and to the Rules of his Institution.

'Tis against these two Articles our New Divines oppose themselves might and main. They conceive on the one hand, that tho the People be not bound to obey unjust Commands, yet they never can have any Right to resist the Sovereign Power; no, not when they make use of Violence, to oblige the People to execute their wicked Designs. This is the Doctrine of Non-resistance or Passive Obedience, which has been so much agitated of late years. *The Non-swearers pretences. Non-resistance.*

And as to the other Article, they maintain the People have yet less right to cast off their Princes, or rid themselves of them, how high soever the Abuses may be they commit, in exceeding the bounds of their Authority, and how Tyrannical or Arbitrary soever their Government may be: That Sovereign Powers depend on none but God, so that the People cannot, without invading the Rights of the Deity, undertake to depose or punish them. *And Jure divino.*

These are the Points we are to consider at present. I begin with Non-Resistance, otherwise call'd Passive Obedience.

C H A P. VII.

Concerning Non-Resistance.

THIS Doctrine of Non-Resistance seems to me to be founded upon three Suppositions, which may be easily convinc'd of Falsity.

First, These Gentlemen forge to themselves an Idea of Sovereign Powers, and ascribe certain Rights to them, which they afterwards look upon as essential to Government, and consequently as Rights inseparable from Sovereignty, whatsoever sort of Sovereignty it may be. Which essential Rights, according to their account, are these: *First*, Not to be accountable to any but God. *Secondly*, To have the whole disposal of the Sword. *Thirdly*, To be exempt from all Coercive Power whatsoever. *Fourthly*, Not to be liable to suffer Resistance, on any pretext. *Fifthly*, to be invested with the Legislative Power. They conceive, that without these Rights a Prince is still but a Subject; and consequently, that they are all essential to Sovereign Power, and therefore inseparable from it. Upon these Premises they with ease establish this Conclusion, That forasmuch as the Right of not being liable to Resistance, is inseparably annex'd to Sovereignty, the People can never of Right resist their Princes on any pretext whatsoever. *False Suppositions rejected. Maxims of the Non-swearers.*

If we object against this their Scheme, that the Rights they attribute to Sovereignty, are such as cannot agree with a Sovereignty limited by Laws, which allow of Resistance, because there can be no Authority but by Law, and according to Law: Whence it follows, that it is Lawful to resist him who has no Authority. *Authority against Law is no Authority.*

They suppose in the Second place, that all Limitations whatsoever do only respect the Exercise of the Sovereign Power, without being able in the least to derogate from the Essentials of Sovereignty; and that after all, these Limitations are only the Effects of the Consent of Sovereigns; which proceeding only from their good Will, are revocable *ipso facto*, as soon as it pleaseth them so to do. *Second false Supposition.*

The Third Supposition is this: They pretend that the Holy Scripture holds to us such a Power inherent in Sovereigns, as can never be lawfully resisted; and that it exhorts People to submit themselves so absolutely to it, that they never undertake to oppose themselves against its unlawful Effects otherwise than by Patience, when they are convinc'd in Conscience of the Injustice of the Laws and Commands enjoin'd. *Third false Supposition.*

'Tis

'Tis an easy matter to overthrow the First of these Suppositions.

Reasons
against
their first
Supposi-
on.

First, I would fain know who has given these Gentlemen the Power of determining, as they do, what is Essential to Sovereignty. Do they derive these their Notions from Revelation, or from Reason, which is common to all Men? If they say they derive the Definition they give us of Sovereignty from Revelation, they will do well to point us to the places of Scripture where this Notion is set down.

Their Noti-
ons are
grounded
neither on
Revelation
nor Reason.

If they draw it from Reason, then I cannot but wonder that so many Statesmen and Writers of Civil Matters have fail'd of stumbling on the same Notion; and it seems to me an inextricable thing, that so many Nations should agree to reject what they approve, and to approve what they reject.

To say here, that they draw this Definition from the Idea of Sovereignty, which loseth its nature when divested of these Characters, shews they are willing either to abuse themselves or others by a pitiful Equivocation. The word Sovereign imports a relation to Inferiors; and as the Relation has a certain foundation, so it is likewise evident, that it hath its bounds set proportionable to its foundation. Where there is no Authority, neither is there any foundation for Obedience: Now there is no Authority but in proportion to the Laws which establish the Authority; wherefore it incontestably follows, there can be no Authority where the Law is so far from allowing any, that it opposes it.

Different
Notions of
Sovereign-
ty.

It will never cease to be true, that the Authority is Sovereign, tho it be not so in all respects. The Consuls of *Rome* were Sovereign Magistrates, tho the People had Power to oppose themselves against their Authority, when they abus'd the Power they were intrusted with, for the good of the Commonwealth. In *France* they give their Parliaments the Name of Sovereign Courts, tho their Sentence be not always irrevocable.

Sec ond
Supposi-
on exami-
ned.

The Second Supposition is only founded upon this Notion, that Conquerors having invaded the Liberty and Privileges of the People, were afterwards so kind, to restore some part thereof to them again by their Concessions; but that these Acts of Grace do not at all divest them of the Right of acting, whenever it shall please them, as if their Power was altogether unlimited and arbitrary. This Notion is much the same with that of the Partisans of the Court of *Rome*, who maintain, that the Liberties of the *Gallican* Church are only Acts of Grace and Favor granted to that Church; whereas the *French* pretend, that they are Common Rights and Franchises which their Ancestors have constantly maintain'd, according to what *P. Pitbou* declares concerning them.

Privileges
and Liber-
ties of
People
whence
deriv'd.

But indeed, to speak truly, this Supposition cannot be admitted with respect to conquer'd States, at least for the most part. Ordinarily a Conquest is made upon the Power that governs the State; so that the State only changes its Master, the fundamental Laws of the Land receiving no Alteration from this Change. Of this we have an Instance in *England*, when King *William* conquer'd it, who at his Coronation swore to keep the Laws of *St. Edward*; and his Successors were fain to swear the same. Now one of these Laws (*c. 15. T. 1. Spelm. p. 622.*) imports, that a Prince that abuseth the Power he is intrusted with, does lose the Title of King: From whence it follows, that his Subjects need not own or obey him, and that consequently it is lawful to resist him.

To maintain, That a King, whose Power is limited by the fundamental Laws of a State, and with which he is invested upon that Condition, when at his Coronation he swears to the People, is indeed oblig'd to keep the said Oath for fear of God, but that he is not at all engag'd by this his Oath to the People, is rather a piece of Raillery than Reasoning. What, Does not the Oath the People swear to the King oblige them in Allegiance to him? And how can we then suppose that the reciprocal Oath of the King should not as well oblige him to his People? Surely, if we well weigh the case, 'tis impossible but we must discern a palpable falsity in this Opinion of Passive Obedience, in the way these Gentlemen propose it.

No Sove-
reignty has
a Right op-
osite to
the chief
End.

First, They grant a Right to Sovereignty which is diametrically opposite to the end of Sovereignty, according to the Divine Destination. For the good of the Society, and its Subsistence, was God's End in instituting of the Sovereign Power; whereas by their Hypothesis the Sovereignty may become an Instrument of the utter ruin of the Society, whensoever it shall please the Sovereign; his Subjects in the mean time having no means to attain the said End, or being in any Condition to hinder their being depriv'd of it.

Secondly,

Secondly, They suppose that God in allowing a lawful Right to Sovereigns, has subjected the People to a necessity of groaning under an illegal Right, and which God has never bestow'd upon them, and for the Usurpation of which he will condemn those who do arrogate the same to themselves; which is much to the same purpose, as if I should say, That because God has establish'd Judges, he has thereby oblig'd the People to suffer Robbery, when the Judges shall think fit to turn Robbers.

Thirdly, They make the condition of a Civil Society more unhappy, than was the Condition of Families in the state of Nature before Societies were form'd: For the liberty of defending one's self is permitted to every one by Nature; but after the Society is once form'd, it would follow, that the whole Society should be oblig'd, by a Principle of Conscience, to suffer their Throats to be cut by a Prince of the Humour of Nero or Caligula.

Fourthly, They turn to mere Chimera's and Visions, whatsoever the Wisdom of Men have been able to find out to make States happy by securing them against Tyranny. I speak of Laws and Oaths; the Laws are the Bands and Cement of the Society, and the Foundation as well as the Measure of the Obedience we owe to Princes. The Oaths are the Seal of the Contract, by which the Subjects are oblig'd to obey them, upon condition they govern according to Law. But all this is to no purpose, and is of no use to the People, as soon as the Tyrant thinks fit to overturn the Laws, and to make a Scoff at his Oaths.

Forasmuch as the *Third* Supposition, viz. That the Scripture maintains *Non-resistance*, with regard to Sovereigns, whether they act according to or against Law, is of greater importance, it will be convenient to examine the same more heedfully; and the rather, because Men of Abilities and Learning have endeavour'd strongly to assert it, and to make it pass current with others, and that with all their might.

CHAP. VIII.

That the Scripture doth not assert the Point of Non-Resistance.

FORasmuch as the Doctrine of *Non-resistance* directly thwarts a natural Principle, to wit, that of our own preservation, and that of the Society whereof we are Members; we may easily judg, that in case the Scripture does assert it, we must suppose it has done it with all possible clearness and distinction; but we do not find any such thing.

I find but one place in the Old Testament which can be wrested to this purpose with any probability; 'tis the Description of the Behaviour of a King, set down 1 Sam. 8 & 10. where the vulgar Translation interprets *Mispach* by the word *Right*, *hoc est jus Regis*. But I am astonish'd how any could be mistaken in this Case.

For, 1. it appears that God in that place gives us the Description of a Tyrant, not of a King: for indeed we find nothing like to it in the description he gives us of a King by Moses, Deut. 17. Which appears to be so, because Samuel held forth this Looking-glass to them, to make them quit their Demand of having a King set over them, as the rest of the Nations about them.

2. It is apparent that what he saith of their crying to the Lord, when oppressed by their King, would have been most ridiculous, supposing the King to have these Rights from God, and by his Concession. When Moses tells the Jews, *That they should cry unto the Lord, when they should be oppressed by their Neighbours waging War against them, because of their forsaking the Lord*: Does he not plainly suppose, That they would do this to obtain his Protection against the Injustice of those Tyrants? And can any one be suppos'd Fool enough to imagine, that according to God's Intention it was unlawful for the Israelites to defend themselves against the Moabites, Philistines, and other Nations that oppress'd them?

3. It is evident that this suppos'd, God could not in justice punish a Tyrant; or if he did, it would be for making use of a Right himself had confer'd upon him. This reason made R. Juda to oppose R. Jose, as Kimki observes upon this Text. The same is also acknowledg'd by the wisest of Divines: *Marchat in horto Pastorum*, Lib. 3. Tr. 4. Lect. 13. explains himself thus, *Hoc est jus Regis, idem est ac si diceret, Hæc est consuetudo Regum*; This is the Right of a King, is the same as if he had said, This is the Custom of a King, *Jus Regum, Jus non legi-*

Right of Kings not deriv'd from Samuel.

timium sed usurpatum. Estius. Samuel speaks there not of a lawful Right of Kings, but of an usurp'd and arrogated Right: And the same is the Opinion of *Cornel. à Lapid.* and the *Fansenists of Port Royal.*

After all that has been said, it is natural to observe, That forasmuch as all the several kinds of Government are no less founded on Divine Authority than the Kingly; yet according to this Hypothesis, none of them would be invested with this Right so fatal to Society, but Kings only, which certainly is the worst Argument they could have lighted on, to recommend a Government, which God by his own Institution has constituted a true Tyranny.

St. Paul,
Rom. 13.
consider'd
and vindicated.

The second Place is that of *St. Paul, Rom. 13.* where the Apostle forbids resisting of the Powers, for fear we should resist the Ordinance of God. But we are to take notice, that the Apostle in that place does not in the least touch this Question, Whether it be lawful to resist the Powers when they endeavour to overthrow the Government?

First, He considers the Powers in the lawful use of their Authority, punishing the Evil, and protecting the Good. Now it is ridiculous to suppose, that the same Privilege that appertains to him who makes a lawful use of his Authority, is every whit as applicable to him who has lost his Title by the abuse of his Power. *Rex,* saith *St. Isidore, à recte agendo dicitur; si enim pie & justè & misericorditer agis, merito Rex appellatur; si his caruerit, non Rex, sed Tyrannus est.* A King has his Name from acting right and well; for if he acts piously, justly and mercifully, he is deservedly call'd a King; but if he want these Qualifications, he is no King but a Tyrant. *Addit. 2. ad capit. Carol. Magn. cap. 21.*

Secondly, This would suppose the Powers that act under Sovereigns, to be every whit as irresistible as the Sovereigns themselves; which is an extravagant Position in the sense of all Modern Divines. Besides, we are to observe that Sovereigns with their Power, are only the organical Chiefs of the Society; the true Head or Chief is the Principality with its Members, which are the integral Parts of it. This is the same that was acknowledg'd by *Charles Moulin*, the Prince of French Lawyers, and the great Defender of the Kings of France and their Authority.

Upon this account it is that the People have Right to prosecute the Misdemeanours of the King's Attornies and Ministers, and to punish them; which would be strangely ridiculous, if the State were not perswaded that all the Power they have is a Power receiv'd from the State, tho the King have the Power to elect and raise them to those Employments.

The Intent
of the Apo-
stles words.

It is apparent therefore, that these words of *St. Paul* only have an eye to the repugnance the Christian Jews had to submit themselves to the Dominion of Heathens. This was the Opinion of the *Pharisees* who tempted Jesus Christ, upon occasion of the Tribute which the Emperor levied in *Judea*: *Josephus* shews that the *Essenians* oppos'd them in this Point, and *St. Paul* here takes the part of the *Essenians*. And indeed we don't find that the Christians did any way oppose the Decree of the Senate, when they declar'd *Nero* the Enemy of all Mankind. We find also that the Christians of *Tertullian's* Time, and those that follow'd after, did very well agree with the Sentiment of Heathen Authors, about the Justice of the Peoples or Senate's resistance against such Tyrants; as is apparent from *Lactantius de Mortibus Persecutorum*, and the like may be seen in *Eusebius*, *Orosius*, and in *St. Augustin de Civ. Dei*. But I can say more than this, *viz.* That the Scripture is so far from teaching the Doctrine of *Non-resistance* to an unjust Power, and which violates the Laws, that she represents to us contrary Examples with Commendation, and sufficiently intimates, that we rather sin in not resisting: For don't we see *David* taking up Arms to defend himself against *Saul*? Don't we see him offering *Achish* to fight for him against *Saul*, notwithstanding he was his Father-in-Law? Don't we see the Ten Tribes opposing themselves against *Rehoboam*, upon his declaring for Tyranny and Arbitrary Government?

The Case of
Uzziah.

Let us take the pains heedfully to consider the Carriage of the High Priest and his Collegues, when King *Uzziah* presum'd to exercise the Functions of the Priesthood in offering Incense; and it will plainly appear, they did not think it unlawful to resist Sovereign Authority, when it goes beyond its bounds, 2 *Chron. 26. 17.* *Azariah* the High Priest follows him with fourscore Priests, all valiant Men, drives him out of the Temple; and afterwards he is depriv'd of his Government, and his Son plac'd on his Throne. It cannot be alledg'd by these Gentlemen, that this happen'd to him because of his Leprosy, because they suppose that a Prince cannot be resisted

list'd whatever his Behaviour may be, or devested of the Right of Governing for any Reason whatsoever.

After all, let us consider how severely God punish'd *Israel* for the Sin of *Saul*, in breaking the Troth plighted to the *Gibeonites*; and we shall find they were envelop'd in the punishment of his Sin, because they had not oppos'd themselves against *Saul's* breach of Faith. And we may make the same Reflection about the Punishment God inflict'd on the People, for their consenting to *David's* numbring them, which God had forbid. And why so, but because they did not oppose themselves against this Enterprize of *David* as they ought to have done? We do not find the People engag'd in the punishment of *David's* Adultery with *Bathsheba*, because indeed the People had no share in that Sin. We see the Inhabitants of *Libna* rejecting *Joram*, because he had forsaken the Lord his God, 2 Chron. 21. 10.

The Jews punish'd for Saul's Sin.

Lastly, I desire that those who talk so much of *Passive Obedience*, would be pleas'd attentively to consider the behaviour of the *Maccabees*, when they shut the Gates of *Modin* against the Envoys of *Antiochus*, and afterwards took up Arms for the defence of their Liberty and Religion, 1 Mac. 2. As also that of *Matthias*, who shut the Gates of *Modin*, in exhorting his Children to continue in their Resistance; and does the same at the hour of his Death, without believing that he was guilty of any Sin in taking up Arms; and his Children follow his Exhortations with an extraordinary Courage and Piety.

The practice of the Maccabees against Passive Obedience.

I own that the Books which have preserv'd this History are not Canonical, any more than *Josephus* who has follow'd them. But I must observe,

First, That it sufficiently appears, what the Opinion of the Jewish Church was in this Point, who still retains an Abridgment of these Books in her Books of Prayers, highly praising the *Maccabees* for their Virtue and Piety.

Secondly, That the Christian Church has allow'd the publick reading of them, notwithstanding they were not Canonical, and that with great esteem too; which would have been extravagant and impious, in case the Resistance of the *Maccabees* had been a true Rebellion.

Thirdly, I have still more to say, viz. That the Apostle *St. Paul*, in the 11th of the *Hebrews*, makes an Encomium of the *Maccabees*, and approves the War they undertook. This is that which is acknowledg'd by the learned *Thorndike* in his *Right of the Church*, Pag. 306. by *St. Chrysostom*, Hom. 27. in *Epist. ad Hebr.* and by *Haymon* Bishop of *Halbarstad*; as also by *Menochius* and *Estius* in their Commentaries.

The Maccabees commended Heb. 11. by St. Paul.

Fourthly, That *Lucifer de Cagliari*, in his Book *De non parcendo in Deum delinquentibus* (a Book approv'd by *St. Athanasius*, who calls this *Lucifer* a new *Elias*, Pag. 1068.) openly sets down, not only that he believ'd it was lawful to resist Kings under the Old Testament, but also to put them to death in case of Idolatry, which he maintains the *Arians* were guilty of. *Si veteris Testamenti temporibus vixisset (Constantius Imperator) gladio potuisset extinguere, & defuncti ossa igne absumpta fuissent.* If *Constantius* the Emperor had liv'd in the Times of the Old Testament, he might have been kill'd with the Sword, or at least his Bones after his Death would have been burnt.

CHAP. IX.

Whether the States can deprive Sovereigns of their Authority when they abuse it.

THEY who maintain it is not in the Power of the Subject, justly to resist the Authority that is once establish'd, tho it abuse the Power committed to it, believe also consequently, That it is not lawful for a State to reject their Sovereign, nor to deprive him of his Authority, tho he make use of it to overthrow the Government. But forasmuch as the former Opinion is wholly contrary to all good Sense and Justice, the lesser cannot be less so. I own it unjust to deprive a Sovereign of the Power he enjoys, as long as he useth it lawfully: And in this regard it is, we must not attempt any thing against the Authority of Kings, or other Sovereign Magistrates. I acknowledg also that the People may not rise up against their Superiors, for the first Fault they commit in matter of Government: Kings being no more infallible than other Men, we cannot with justice expect from them, that they should commit no Faults at all in their managing of the Government.

Princes not
to be op-
pos'd in
small Mat-
ters of Il-
legality.

It is also evident enough that the People must not oppose themselves against every thing that seems to have some Air of severity or hard usage in the Government; as *St. Paul* also orders Servants to suffer patiently the hard usage of a too severe Master. Good sense alone is sufficient to inform People, that they must not expose the Publick Tranquillity to danger for some Severity, or for some Interest which respects only some particular Persons. And indeed in this respect we may say, that private Persons are oblig'd to sacrifice their particular Interest to the Publick Good and Peace. But there is a vast difference between a King that governs justly, or that falls into some Error, which he is willing to retract and amend upon a Remonstrance from his Subjects; and a Tyrant who overturns the Laws of the State, and the End of Government designedly and of deliberate purpose. It would be a strange Delusion for us to attribute to a Tyrant the Privileges of a King; or to suppose, as otherwise we must, that there is no Means to distinguish them; both which Extremes are equally ridiculous. For,

How to
know a
King from
a Tyrant.

First, All wise Men that ever were, have declar'd, that it is easy to know the difference between a King and a Tyrant. *Aristotle* gives us an exact Idea of a Tyrant, *Polit. lib. 4. cap. 10. Pol. 6. Hist. lib. 5.* gives us the Character of a Tyrant, in opposition to that of a King. *Synefius* also gives us a very lively Portraiture of one, *de Regno. Isidorus* gives us this description of Tyrants, *Origin. lib. 9. cap. 3. Jam postea in usum accidit Tyrannos vocari pessimos atque improbos Reges luxuriosæ Dominationis cupiditatem, & crudelissimam Dominationem in Populis exercentes*: Now it is become customary to call bad and wicked Kings Tyrants, who are ambitious of Arbitrary Power, and oppress their Subjects by a most cruel Dominion. A King (saith the Scholiast of *Aristophanes*) differs from a Tyrant, in that a King possesseth his Kingdom, *certis sumens conditionibus, ὅτι ἐν τοῖς λαοῖς πέρχεται*, receiving it on certain Conditions; whereas a Tyrant enters upon it by Force and Violence. *Bartholus* among the Lawyers, gives us a description of a Tyrant; and the Characters wherewith he sets him forth are infinitely different from those that ought to be in every King. Wherefore we cannot imagin, that the difference between a King and a Tyrant should be none at all, or imperceptible.

A Tyrant to
be rejected,
the Opinion
of all sorts
of Men.

Secondly, Heathens as well as Christians, Papists as well as Protestants, equally agree, That it is lawful for a State to rid themselves of a Tyrant, by wholly casting him off.

Of Hea-
thens.

This is a constant Maxim among Heathens, whereof we may see the Proofs in *Thucydides, lib. — in Pausanias in Attic. in Polyb. lib. 2. in Cicero, lib. 3. de Offic. & Orat. pro Milone, & lib. 2. de Invent. in Seneca, lib. 2. de Benefic. cap. 20. in Seneca the Tragedian; in Hercule Furere; in Pliny, lib. 34. cap. 4. in Valerius Maximus, lib. 2. cap. 10. in Plutarch. in vita Bruti, and in Themistius, Orat. 14.*

Of Jews.

The Jews have reduc'd this Maxim into practice, as we may see in the History of the *Maccabees*, who took up Arms against the Authority of *Antiochus Epiphanes*.

Of Christi-
ans.

As for Christians, we find this Sentiment confirm'd by *Lucifer de Cagliari*, and approv'd by *St. Athanasius*. We find that *St. Austin* (a) maintains against *Adimant*, *cap. 17.* That tho *David* did not kill *Saul*, yet he had right to do it. *Bron-tius* agrees with this Judgment of *St. Austin*. And *Sozomenus, lib. 6.* proves, That if the *Roman Soldier*, who was suspected to have kill'd *Julian the Apostate*, had done it indeed, he had done it justly and of right. We find the same thing asserted by *Englishmen*, as by *Joannes Sarisbur. Polycrat. de nug. curial. lib. 7. cap. 17, 18, 19.* by *Matthew Paris, ad An. 1233.* in the business of the Bishop of *Winchester*.

Papists of
the same
Opinion.

The Church of *Rome* has always been of this Opinion before the Reformation, as appears by the Judgment of *Thomas Aquinas 22. qu. 24. art. 2. of Aureolus* and all the Schoolmen. In a word, we can affirm, That this was receiv'd as an indubita-

(a) *August. libro contra Adim. c. 17.* Nec tamen hoc fecerunt justii homines, nisi autoritate divina, ne quis arbitretur passim sibi esse permissum necare quem velit, aut judicio persequi aut pœnis quibuslibet afficere. Aliquando autem aperte ponitur in scripturis ipsa divina autoritas, aliquando autem occultatur, ut & manifestis lector instruat, & exerceatur obscuris. Certè inimicum & persecutorem suum, nimis ingratum & nimis infestum *Saul Regem* accepit *David* in potestatem ut ei faceret quod vellent, & elegit parere potius quam occidere.

Non enim erat justus occidere, sed neque prohibitus, imo etiam divinitus audierat se impune facere quicquid vellent inimico, & tamen tantam potestatem ad mansuetudinem contulit. Dicatur mihi quem timuit, cum interficere noluit? Nec hominem possumus dicere timuisse quem acceperat in potestatem, nec Deum qui dederat. Ubi ergo nec difficultas fuit occidendi nec timor, dilectio profuit inimico. Ecce *David* ille bellatur implevit præceptum Christi quod accepimus, ut diligamus inimicos.

ble Opinion in the Council of *Basil*, who laid it down as a Principle whereupon they grounded their Right of deposing the Pope.

This has always been the Opinion of Popish Lawyers and Canonists, as we may see in *L. decernimus de Sacrosanct. Eccles.* in *Bartholus in tractatu de Tyrann.* in *Paris de Puteo*: in *Syndic.* where he puts the Question, Whether it be lawful to kill a King that is a Tyrant. In *Andreas Iserus institut. quæ sint Regalia.* In *Mar. Laudun. in tractatu de Princip. Sect. 3.* In *Angelus de Clavasio in summa voce, Seditio. Quæst. ultima*: in *St. Antonin. in summa 2. par. tit. 4. c. 8. Sect. 1.*

Popish Civilians and Canonists.

Neither do the Protestants differ from them in this Point, as is evident from the Writings of *Zuinglius, Luther, Calvin, Paræus, Bilson, Abbot, &c.* *Conringius* lays it down as an indubitable Truth, *ad Lampadium de Imp. Rom.* 119.

Protestants.

And the Papists since the Reformation are of the same Judgment, as will appear if we consult *Gregor. de Valentia, Tit. 3. disp. 5. qu. 6. Tolet. in summa l. 5. c. 8. Mariana de Rege, lib. 1. cap. 3, & 6. Lessius de Jure & Justitia, lib. 2. cap. 9. dub. 4. Molina tr. 3. disp. 6. de Justitia & Jure. Eman. sa in Aphor. verbo Tyrannus. Suarez in defens. fidei, lib. 6. cap. 4.*

Papists since the Reformation.

Neither let any one imagine, that this is only a Doctrine of the Jesuits: We may see the contrary, in those who have written concerning the Deposition of *Henry the Third*, and who have maintain'd the Justice of that Deposition. And we may affirm, That among so many *French* Authors who have writ against *Baronius* and *Belarmine*, who attribute the Deposing of *Childeric* to Pope *Zachary*, and the placing *Pepin* on the Throne in his stead, there is scarce any to be found, who whilst they dispute the Pope's Right to depose Kings, do not acknowledg, that it is a Right inherent in the States of the Kingdom.

And indeed to weigh the thing in it self, it is evident, That when a Prince is become the Enemy of his People, and endeavours to destroy them, he thereby loseth the Right of governing them. If we take the Sword out of the hand of a Madman that he may do no hurt with it, who doubts but we have the same Right to take away that Power from a Prince, which he makes use of as if he were a Madman?

The History of *Portugal* fully sets forth to us the Judgment of that Nation, with respect to King *Alphonfus III.* This Prince minding nothing but hunting, his Council represented to him, That if he did not apply himself to the Business of State, they would depose him and place another on the Throne. What would not they have said, think we, had they seen him murdering his Subjects in cold Blood, as their last King whom they banish'd because of a like madness?

Instance in Portugal.

I acknowledg, that the Commonwealth has put its Rights into the hands of the Prince, by which she seems to have depriv'd her self of that Power. But it is a strange and uncouth Imagination to suppose, that a State should deprive it self of the Right of resisting Injustice and Violence, which is a Right that Nature communicates to every Creature, together with its Being. Besides, it is certain, that if a State be limited by Laws, and that the People are the Authors of them, so that they share and exercise the Sovereign Power; in this case they are naturally suppos'd to possess and hold the Authority, which is necessary to preserve the Right that belongs to them.

No Power without reserve lodg'd in the Prince.

Let Men philosophize as long as they please, they shall never be able to make out, either that a Prince can pretend to a Power of destroying the Society, without any danger of being call'd to an account for it; or that a People can ever be esteem'd to have granted him a Right, tending to their own Ruin and Destruction.

But some may say, That the Title of a King ought to secure a Tyrant against any Resistance he might be liable to from his Subjects; even as the name of a Father is a Title that puts Children out of a condition of setting themselves against him, whose Cruelty they have experience of. But besides that there is a great deal of difference between these two Titles, which is the ground of the Difference there is between the Subjects and a King, and the Children and a Father; is it not notorious, and practis'd every day, that a Father who is become the Enemy of his Children, is depriv'd of the administration of his Goods, and of the disposal of his Children? which practice being grounded on the Law of Nature, doth not in the least violate the Order of the Society.

Difference betwixt Regal and Paternal Power.

Moreover it is certain that a Title, how venerable soever it may be, cannot secure him that bears it, from the resistance of those that are oppress'd by him. Let us conceive a Physician that has a design to poison his Patient; can the Title of a Physician, which has induc'd his Patient to commit the care of his Health to his trust, hinder

Title of no moment when abus'd.

hinder the Patient from prosecuting him as a Murderer, in case he resolv'd to take away his Life, instead of contributing to his Cure?

We know that Divines look upon the Government of the Church, as a Government instituted by God, and immediately instituted by him: and yet who knows not that they have deposed the Pope, Bishops and Popish Priests, by withdrawing themselves from their Dominion, and that upon this ground, that tho there be something lawful in their Ministry, yet they oppose themselves to the End of their Ministry, by reason of the Tyranny which they exercis'd over their Consciences?

Another
false Sup-
position for
Passive O-
bedience
refuted.

But some may imagine, that because God has not expressly given this Right to People to cast off their Kings when turn'd Tyrants, and that he has thought it sufficient to recommend Obedience to them, he has thereby authoriz'd all their unjust Proceedings and Violence, without leaving any means to the People of opposing themselves against their Oppression by deposing them. This is a mere Delusion; and to see through it, we need only consider God's Silence concerning the irregular comportment of the High Priest, who notwithstanding was subject to the same Punishments, as were the meanest Levites, in case of his violating the Rules of his Institution, and transgressing the Laws which God had given to all the People of *Israel*, and to the Priests in particular. Indeed, it was not needful that God should prescribe any such thing to the People, because Nature alone is sufficient to teach People a Right they are possessed of, by giving their Consent to the Elevation of the Powers that govern them. In a word, I say, that God had sufficiently intimated to the Israelites, that they could not lawfully be oppress'd, in that he had expressly forbid their Kings to heap up vast Riches, or to multiply the Number of their Cavalry, which the Kings could not do without violating the Law of God, and without drawing upon themselves the Resistance and Opposition of their Subjects; as *Josephus* very well infers, who maintains, *Lib. 4. cap. 8.* 'That the People ought of Duty to oppose themselves against a Prince, who transgress'd the Bounds God had prescrib'd to him in the 17th of *Deuteronomy*.

The Royal
Power a-
mongst the
Jews ex-
amin'd.

But this Point leads us insensibly to consider more particularly, what kind of Royalty it was that obtain'd amongst the Jews, which deserves carefully to be examin'd. This I intend next to consider, and afterwards shall proceed to take a view what was the Law of Royalty among the *Romans*; and shall make it appear, that the Kingdoms of *Europe* which have been form'd out of the Ruins of the *Roman* Empire, have neither follow'd the one nor the other of these Models, tho some Divines have asserted it without respect to Truth.

C H A P. X.

Concerning Regal Dignity, and the Rights belonging to it amongst the Jews.

I Am to make out four Things in order to the clearing of the Character of Royalty, which obtain'd amongst the Jews.

The first is, to enquire, whether it was immediately established by God.

2ly, To shew that it was limited according to the Description we have of it in the 17th of *Deuteronomy*.

3ly, To evince solidly, that all that *Samuel* declar'd concerning the Right of Kings, was only a Prophecy about the Tyranny of Kings, and not the Right of Royalty.

4ly, To make it appear, that supposing that of *Samuel's* to be a Description of a Lawful Right, yet that particular Settlement could not be of any Consequence to those Estates that had another Institution.

Some Magi-
strates a-
mongst the
Jews by
Divine ap-
pointment.

For the first, I say, That the Institution of some Magistrates amongst the Jews, was by express and immediate Revelation from God: *Moses* his Ministry and Authority was establish'd and confirm'd by miraculous Signs and Tokens, as appears *Exod. 3.* And for the Judges of the People of *Israel*, it may be seen in the 18th Chapter of the same Book: But we find nothing like this in the Establishment of the Kingly Authority amongst them. For we do not find that God in the 17th Chapter of *Deuteronomy*, enjoins the People to establish a King over them, as the Jews themselves believe; but only that he foresaw the disorderly Inclinations of the People, who in time to come would demand a King to rule over them, in conformity to those

those of their Neighbour Nations. A demonstrative Proof of what I say is, that God having declar'd himself solemnly to be their King, in giving them Laws, in leading their Armies, &c. they could not reject him without committing a great Sin. This is that which *Gideon* was very sensible of, as appears by his absolute refusal of the Royal Dignity. The same thing may also be gather'd from the words of *Samuel*, 1 Sam. 8. and of God himself.

I own indeed, that when the People shew'd themselves obstinately resolv'd to have a King, there happen'd something of an immediate designation of *Saul* to that Dignity, as may be seen 1 Sam. 10. for the Election was made by casting of Lots in the presence of *Samuel*, to shew that the Appointment of *Saul* was immediately from God. But for all this it continues a great Truth, That the establishment of the Royal Power in *Israel* was an Act of the People, and not an immediate Act of the Deity. And we ought to give the more heed to what was immediate in the Institution, because it is the Foundation of many particular Expressions we find in Scripture. When it is said of the Judges of *Israel*, Deut. 1. 17. That their Judgment was God's Judgment; That they are Gods, Exod. 21. 16. & 22. 8, 9, 28. Psal. 82. 1. John 10. 35. That God is with them in their Judgment, 1 Chron. 19. 6. all those Expressions refer to their immediate Divine Institution. When the Scripture, speaking of the Kings of *Judea*, saith, That *Solomon* sat upon the Throne of God, 1 Chron. 29. 23. that is to say, that God had placed him on the Throne of *Israel*, which God himself was possessor of till their Demanding a King of *Samuel*, 2 Chron. 9. 8. When it calls them the Kings of God, 1 Sam. . Psal. 18. 50. and his Anointed Ones, 2 Sam. 22. 51. which Title is given to *Saul*, as well as *David* and *Josiah*: All those Expressions respect God's Establishment of Kings, after that the People had earnestly and obstinately demanded to be govern'd by their Ministry.

Saul had an immediate Designation from God to be King.

As to the second Head, which respects the Laws that God prescribes to the Jews, to regulate the Choice and the Conduct of their future Kings, set down by *Moses* in Deut. 17. v. 14, 15, 16, 17, 18, 19, 20.

We may therein observe these two things.

1st. That God supposeth, that forasmuch as they would some time after set up a King over them, they would also suppose it lawful for them to prescribe to the Royal Power, the Form and Rules which their Neighbour-Nations amongst themselves had set to that Form of Government.

Limitations of the Regal Power amongst the Jews.

2^{ly}. That God leaving to the People the natural Right of limiting the Royalty amongst themselves, according to their own liking and fancy, or for giving it more scope and liberty as their Neighbours had done, only thought good to prescribe to them these Rules and Limitations.

1. God limits their Choice as to the Person of a King, that he must be one chosen by himself. 2. They might not chuse a Stranger. 3. He does not allow the King to multiply Horses; 4. Nor to lead the People back to *Egypt*; 5. Nor to have great store of Wives; 6. Nor to heap up vast Riches. 7. He enjoyns him to study the Law of God, and have it always with him to observe and keep it. And, 8. to do Justice equally to all without distinction.

Rules for those Limitations.

These are the Laws which *Josephus* hath compendiously set down, Lib. 4. cap. 8. p. 123. after *Philo*, in his Treatise concerning the Creation of the Prince.

Now it is natural and obvious to conclude from all this; 1. That God doth not in that place prescribe a Platform of a Monarchy for the Government of the Jews, but only supposeth that the Jews being desirous of Monarchy, would be apt to borrow the Model of it from the Neighbour-Kingdoms. 2. That in prescribing some Rules concerning the choice and behaviour of a King, he endeavours to prevent the State of *Israel* from falling into the Inconveniences into which their Neighbour-Nations had cast themselves, by allowing their Kings, or at least suffering them to take too great a Power and Authority, whether in Matters of State or Religion. 3. That he supposeth that the People ought to oblige the King to observe these Laws of God, and that they might oppose themselves to Princes, who at any time should have the boldness to violate them, as *Josephus* expresseth himself in the place quoted before. 4. That he allows the People of *Israel* the same Rights to oppose themselves against the unjust Enterprizes of their Princes turn'd Tyrants, which other Nations were possessor of against their Princes when they abus'd their Authority: the reason why People desire a King being, that he may judg and govern them, not that he should destroy them by playing the Tyrant.

It is of importance to make these Observations, because it appears that in all this God did so far accommodate himself to the Design of the Jews, that he never pretended to carry his Laws any farther: for we see he does not speak to them concerning the manner how they ought to behave themselves when they should be attack'd or subjugated by Foreign Powers, as supposing that common Sense would be sufficient to instruct them, that in those Cases they were to follow the Example of other Nations, who bore patiently the Yoke of the Prince that conquer'd them.

The Regal
Power amongst the
Jews limited by God.

Consent of
the People
not excluded.

These things thus laid down, it clearly appears, that God set Bounds to the Royal Power long before he establish'd any King in *Israel*; and that the Jews could not but believe, that Kings had another Law set them than that of their own Wills.

Indeed we see, 1. That this Institution did not at all derogate from the Rights of the People to chuse their own Kings, under certain Conditions, and by a Form of Treaty, Compact, or Capitulation. We find that the Election of *Jephtha*, *Judg.* 11. 10. clearly supposeth this; as likewise afterward the same may be seen in the Election of *Saul*, *David*, and *Solomon*, 1 *Chron.* 28. 8. and 1 *Chron.* 29. 24. We find that *Ishbosheth* was brought into the Camp by *Abner*, only to show him to the People, that they might consent to the choice of him, 2 *Kings* 2. 9.

2. Tho this Institution seems to be immediate, yet did it not at all hinder or prejudg the Peoples Right of making Treaties and Capitulations with their Prince; and consequently of rejecting them, when at any time they should invade or violate the said Rights and Capitulations. And of this we have an illustrious Example in the Sons of *Samuel*, whose ill Administration gave the Jews an occasion to demand a King; by which means *Samuel* himself was, as we may say, oblig'd to renounce his Power as *Judg*, which notwithstanding he had receiv'd immediately from God himself.

The Kings
of *Israel*
had no pre-
tension to
Arbitrary
Power;
Prov'd in
several In-
stances.

3. How immediate soever the Kings of *Judah* may have been establish'd by God, yet they never had the Character of an Arbitrary and unbounded Power, as is suppos'd by those who would infer, that because Monarchy was instituted by God, the Power of him that is invested with it cannot be justly limited, neither can, for any Misdemeanour whatsoever, be depos'd.

To make it more sensible and evident, we need only take notice of what the Scripture tells us in several places.

1.

1. They could not alienate the Lands and Countries that belong'd to the State to any Strangers, neither could they take them from their Subjects by way of Truck or Exchange, as appears from that History of *Naboth*, 1 *Kings* 21.

2.

2. They could not invade the Sacerdotal Functions, as is apparent from the History of *Uzzia*, who was boldly and courageously resisted by the High Priest *Azaria* and his Collegues, 2 *Chron.* 26. 18.

3.

3. They could not constrain the Levites to go to War; that Tribe being excepted from all the rest who were subject to that Service, as *Abulensis* owns it, 1 *Kings* 9. 22.

4.

4. They could impose no Tributes but in case of Necessity, and with the Consent of the People; and those who have undertaken to do otherwise, have been censur'd therefore by the Prophet, *Mic.* 3. 1. Not to mention, that the excessive Tributes *Solomon* impos'd on the People, were the cause of the Ten Tribes shaking off *Rehoboam's* Yoke, 1 *Kings* 12. 3.

5.

5. I say, that tho God had seem'd to fix the Royal Dignity to one Family, to wit, that of *David*, yet was it not so bound up that the Succession must always pass from the Father to the eldest Son, and not to the younger. Thus we see that *Solomon* was prefer'd to *Adonijah* by *David*, by the Consent of the People. Thus *Rehoboam* design'd to settle the Succession upon *Abijah* the Son of *Maachab*, as thinking him most fit for Government, tho he had elder Brothers, 2 *Chron.* 11. 22. *Jehoshaphat* on the contrary prefer'd *Jehoram* to the Succession before all his other Sons, because he was his First-born, 2 *Chron.* 21. 3.

All which evidently proves that both Kings and People suppos'd themselves to have Right, from the Divine Grant or Concession for the Establishment of Kings, to regulate the Rights of Royalty, and the Questions depending thereon, according to the Maxims of Political Prudence, and the Rights of Nations.

No Arbitra-
ry Power
allow'd by
Samuel.

Neither do we find that *Samuel* grounds his Discourse on any other Principles, or that he supposes that Kings ought to be invested with a boundless Power, as some imprudently do imagine. See in what manner he expresseth himself to dissuade the Jews

Jews from their importunate Demand to have him settle a King over them, 1 Sam. 8. 1, 2, 3, 4, 5, to the end. And it came to pass, when Samuel was old, that he made his Sons Judges over Israel. But his Sons walked not in his ways, but turned aside after Lucre, and took Bribes, and perverted Judgment. Then all the Elders of Israel assembled themselves together, and came to Samuel unto Ramah, and said unto him, Behold, thou art old, and thy Sons walk not in thy ways; now therefore make us a King to judg us like other Nations. But the thing displeased Samuel, when they said, Give us a King to judg us. And Samuel prayed unto the Lord, and the Lord said unto Samuel, Hearken unto the Voice of the People, in all that they say unto thee; for they have not rejected thee, but they have rejected me, that I should not reign over them. According to all the Works which they have done, since the day that I brought them up out of Egypt, even unto this day, wherewith they have forsaken me, and served other Gods, so do they also unto thee. Now therefore hearken unto their Voice, howbeit protest solemnly unto them, and shew to them the manner of the King that shall reign over them. And Samuel told all the Words of the Lord unto the People that asked of him a King, and he said, This will be the manner of the King that shall reign over you: He will take your Sons, and appoint them for himself, for his Chariots, and to be his Horsemen, and some shall run before his Chariot; and he will appoint him Captains over Thousands, and Captains over Fifties, and will set them to ear his Ground, and to reap his Harvest, and to make his Instruments of War, and Instruments of his Chariots; and he will take your Daughters to be his Confectioners, and to be his Cooks and Bakers. And he will take your Fields and your Vine-yards, and your Olive-yards, even the best of them, and give them to his Servants. And he will take the tenth of your Seed, and of your Vineyards, to bestow it upon his Officers and his Servants. And he will take your Men-Servants and your Maid-Servants, and the goodliest of your young Men, and your Asses, and put them to his Work. He will take the tenth of your Sheep, and ye shall be his Servants: And ye shall cry out in that day because of your King, which ye shall have chosen you, and the Lord will not hear you in that day. Nevertheless the People refused to obey the Voice of Samuel; and they said, Nay, but we will have a King over us, that we also may be like all the Nations, and that our King may judg us, and go out before us, and fight our Battels. And Samuel heard all the Words of the People, and he rehearsed them in the Ears of the Lord. And the Lord said unto Samuel, Hearken unto their Voice, and make them a King: and Samuel said unto the Men of Israel, Go ye every Man unto his City.

'Tis obvious to observe from this account: 1st. That the Injustice and Miscarriage of Samuel's Sons was the Cause why the Jews demanded a King to be set over them. 2^{ly}. That their Demand is couch'd in those Terms, that make it evident, they desir'd to be govern'd after the manner of their Neighbour-Nations. 3^{ly}. That this their Demand was displeasing to Samuel. 4^{ly}. That God look'd upon it as a Contempt of himself, and a casting off his Authority, for the Reasons before alledged. 5^{ly}. That God strictly enjoyns Samuel to protest and declare unto them, how they must expect to be treated by the Kings that should reign over them. 6^{ly}. That Samuel in this his Declaration delineates to them the compleat Portraiture of a Tyrant rather than of a King, to afright the People from the Demand they had made; and that as a Prophet he foretels the things should happen to them under the Government of their Kings. 7^{ly}. That he represents to them the Miseries annex'd to Royalty, as their Bondage in Egypt, and the several other Servitudes, which had forc'd them to cry unto God; but denounces to them, that God to punish them for this their Rebellion against him, and their Contempt of his Administration, would not hear them. 8^{ly}. That the People dazzl'd with the Lustre of Royalty, and the Advantages they thence promis'd to themselves in time of War, notwithstanding this Remonstrance, persever'd in their Demand. 9^{ly}. That finally therefore God commands Samuel to give way to their Request, and to set a King over them according to their Desire.

Why the Jews desired a King.

Samuel gives the Picture of a Tyrant, not of a King.

This in short is the sense, which Josephus gives of this History. From whence it is evident, that the Synagogue never believ'd that God had granted to the Kings of Judea any of those Tyrannical Rights, which some wou'd appropriate to Kings from these Words, *Hoc est Jus Regis*.

Antiq. lib. c. 4.

Josephus makes out, that what is said, 1 Sam. 10. 25. that Samuel wrote the Right (or rather the Manners and Behaviour) of a King in a Book, and laid it up before the Lord, was done by him for this end, that the People for time to come might know, that he, as a Prophet, had, in this his description of the Manners of a King, foretold them all the Calamities and Miseries that would overtake them under a Monarchy chang'd into Tyranny, that thereby they might be induc'd

Prov'd by Josephus. Ibid. cap. 5.

to acknowledg their Unthankfulness towards God, and their Folly in being so earnest for a King, as often as they should cast their Eyes on this his Prophecy.

I know that some, to assert the unbounded Power of Monarchs, have endeavour'd to prove from these Words of the vulgar Latin Translation, *Hoc est Jus Regis*, that the Monarchical Government amongst the Jews was of this Nature, and, that therefore *Samuel* does not represent the Kings here as subject to any Laws or Punishments, which it seems he consequently ought to have done, after that he had declar'd their Conduct and Behaviour, as absolutely contrary to the Rights of the Society.

But as I have already before observ'd, never was so weak a Foundation made use of, whereon to raise such vast Pretensions as may be easily made out so as to convince those, who make use of an improper Translation, both to delude themselves, and to abuse others, about a Question which is of so great Importance to the Society.

Now that *Samuel* had not any the least Design to appropriate an unbounded Power to the Kings of *Israel*, 1 *Sam.* 8. by these Words, *Hoc est Jus Regis*, appears;

1. Because the word *Mispath* ordinarily signifies, *consuetudo, agendi ratio*, a custom, manner or way of acting. In case we do not explain this word in the same sense it carries in the 2d Chap. of the same Book, *Ver.* 13. we shall make this passage to contradict *Deut.* 17. which cannot be otherwise avoided. This is acknowledg'd by Learned Men, who therein agree with *Schickardus de jure Hebræorum, Cap.* 2. *Thess.* 7. p. 65.

Authorities
to justify
this Ex-
planation
of Samuel.

2. The Fathers are of the same Opinion; see what *Beda* saith in his Exposition upon *Samuel*, *Lib.* 2. *Hoc erit Jus Regis, qui imperaturus est vobis. Non qualis esse debeat, moderatus & justus Imperator, exposuit, cujus & in plerisque Scripturæ sacre locis, & maxime in Deuteronomio, perfectio docetur, sed potius Rector improbus, qui austeritate subjectos sit oppressurus, intimat, ut per hoc populum a pertinaci ejus petitione revocet.* This will be the Behaviour of the King that shall rule over you. He doth not set forth the Qualifications of a moderate and just Ruler, who is fully represented to us in many places of Scripture, but especially in *Deuteronomy*, but rather those of a wicked Governor, who by his Cruelty should oppress his Subjects, that thereby he might deter them from their obstinate demanding of him.

3. The Divines that did not understand *Hebrew*, yet by good Sense and Reason were led to the true meaning of this Word. *Gerson* lays it down as a certain Truth, that this Word does not express a lawful Right, but an unjust Power: *Dictio hæc [Jus] non significat semper Jurisdictionem, sive Justitiam, sed significat interdum Potestatem quæ non est justa, &c. sicut hæc dictio Rex, quandoque sumitur pro Tyranno, & Benedictio pro Maledictione, & Lex injustitiæ pro injustitiæ execratione, & Deus pro Diabolo.* This word [*Jus*] doth not always signify Right or Justice; but sometimes an unjust Power, &c. even as also the word King is sometimes taken for a Tyrant, and Blessing for Cursing, and the Law of Unrighteousness for the execrable Unrighteousness, and God for the Devil. *Opusc. contr. Adulator. Princip. in Confid.* 8.

The same also was the Judgment of *Claudius Espenseus* a famous Divine of the *Romish* Church, who told *Henry II.* of *France*: Your Majesty ought to abhor that Right nothing less than Regal, and nothing more than Tyrannical, which God by the mouth of *Samuel* did not allow the King, but wherewith he threatn'd the People, saying, *Hoc erit Jus Regis*, this will be the Right of a King. *Treatise of the Institution of a Prince, Ch.* 8.

4. It appears evidently that *Samuel* represents to us the picture of a Tyrant, in opposition to the description of a King, God had set down in *Deut.* 17.

5. The Jews of old have always own'd as much, as appears from *Josephus, L.* 4. c. 8.

6. It appears that those who conceive the matter otherwise, suppose a greater Power and Authority in Princes, than they ascribe to God himself, who never commands any thing but what is reasonable and just; as *St. Paul* judg'd, who calls all the Duty we owe to God, a reasonable Service, *Rom.* 12.

7. If any one will take the pains to read the Characters *Solomon* has given of a King, in divers places of the *Proverbs*, he shall find that nothing can be more opposite to this Idea of an unbounded Power, which some would gather from these words of *Samuel*.

Jewish
Kings
never pre-
tended to
absolute
Power.

8. The Kings of *Israel* never enjoy'd any such Power, or ever pretended to it: The History of *Naboth*, whose Vineyard King *Ahab* greatly desir'd, is a Proof hereof beyond all exception, 1 *Kings* ch. 21. *Jezebel* wou'd never have been put to the Trouble, to employ false Witnesses to destroy *Naboth* as a Blasphemer, if she had had in *Israel* some of those Divines, Flatterers of the Grandeur of Princes, who abuse the Holy Scripture to authorize all the injustice and oppression they are guilty of. I am sure it is impossible to read without astonishment the extra-
ganec

gance of some Divines, who conceive that the words of *Samuel* contain an Explication of the Rights of Royalty, and that *Samuel* wrote them in a Book as being the publick and incontestable Rights of Monarchy.

Withal let us make this Reflection, which is very natural: The Jews here complain of the injustice and violence of *Samuel's* Sons, who made a mock of the Laws; whereupon 'tis suppos'd that they, to remedy this Mischiefe, require of *Samuel* to set a King over them, that might govern them according to his own Fancy, and treat them like Slaves: Is there any thing of sense in the Supposition? We suppose that the King has already a Rule prescrib'd him in the 17th of *Deuteronomy*, and at the same time we maintain that *Samuel*, a Prophet, has in a publick Record set down the Description of a Tyrant, to whom God gives Right to violate all the Rules he had prescrib'd in his Law. Sure it is that neither the Antient nor Modern Jews did ever conceive any such thing. If we read *Josephus*, where he sets down an abridgment of the 17th of *Deuteronomy*, we shall find that he expressly asserts, That it was not only the Right, but also the Duty of the People to oppose themselves against their Designs in case they violate the Rules of the Royalty God had prescrib'd them. Let us consider the carriage of the *Maccabees* against *Antiochus*, and we shall find that they did not believe it unlawful to resist Tyrants, and to oppose themselves to their destructive Government.

Deuteronomy and Samuel reconcil'd about Regal Power.

Let any one read the 14th of the first Book of *Maccabees*, and he'll see whether the Rights of the King, which at that time were engraven on Brasse, had any resemblance with what we find in the 8th chap. of *Samuel*. This is a sure way to judg whether the Jews ever pretended that God, by these words of *Samuel*, had granted to Kings an unlimited Power. They to this day acknowledg, that the Scripture does not only prescribe Moral Laws, which their Kings could not violate; but also positive Laws, to which they were obnoxious, and which they could not transgress, without submitting themselves to the same punishments with the rest of their Subjects. This is the common Opinion of the Jews, as we may see in *Maimonides de Regibus Cap. 3. Sect. 4.* and in the Treatise of the *Sanhedrim cap. 19. num. 166, 167, 168.* which Doctrine he borrow'd from the *Talmud cap. Cohen Gadol*, and from *Siphri upon the Parasche Schophetim*.

The Opinion of the Jewish Writers concerning Regal Power.

2ly, They hold that if the King did change the form of Government into Tyranny, the People had right to reject him. The History of *Rehoboam* rejected by the ten Tribes, is a Proof hereof beyond exception.

3ly, They hold that the People suppos'd themselves to have Right, and that it was their Duty to reject *Atbaliab*, who tho she was a Woman, yet had invaded the Throne, 2 *Kings ch. 11. ver. 3.* which the Jews pretend to be contrary to the Law set down in the 17 of *Deuteronomy*.

4ly, They declare that King *Herod* appear'd as a Criminal and indicted Person before the *Sanhedrim*, tho they mistake themselves in the story related by *Josephus lib. 14. cap. 17. Antiq.* whence it appears that he was only Vice-Roy.

I acknowledg that *Casaubon*, Exercit. 13. §. 3. (from whence Bishop *Usher* seems to have taken it) maintains, that the Jews believe that no Creature can judg the King but God alone; and to this purpose quotes a passage out of *Midrasch Devarim Rabba* in *Schophetim*: but it is now 64 Years since *Schickard* has observ'd *Casaubon's* mistake, in handling a matter he did not understand; for indeed the Jewish Maxims are directly opposite to it. 1st, In the place by him cited, we find a Gloss, which shews that that Passage did not concern the Kings of *Judah*, but those of *Israel*, who by their Power had chang'd the Government into Tyranny, *Schickard de Jure Regio, pag. 63, 64.* and trampled under Feet the Laws of God, which made them obnoxious to punishment. 2ly, We must observe that the Jews believ'd, that the Maxim never took place, but a little before the last extirpation of their States, upon occasion of one of their last Kings nam'd *Jamneus*, *Gemar in cap. 2. Sanhedrim*.

Casaubon's Opinion considered.

I own that *Samuel* doth not set down any express Law for the deposing of Kings, or punishing of them when turn'd Tyrants: but yet he suppos'd, as a thing certain and evident, 1st, That their Crimes being contrary to the Law, were punishable according to the general Definitions of the Law against Idolaters, and other Criminals. We don't find that God has spoken any thing in particular neither concerning the High-Priest; from whence the Papists falsly conclude, that he was exempt from Punishment, tho he did transgress the Law. 2ly, I say, that tho the Execution of those Laws was not committed to inferiour Magistrates, yet did it of right belong to the Publick, according to the Natural Dictates of common Sense.

The Idea
of the Jew-
ish Monar-
chy, of no
consequence
to us.

Prov'd.

But after all, whatsoever Idea we may frame of the Jewish Monarchy, I maintain that it cannot be of any consequence to other States. 1st, Because that State was form'd immediately by God, for particular Ends which do not respect other Societies. God might, by Example, grant to the Family of *David*, which he had a mind to distinguish from others, some Prerogatives, which he had no design to communicate to other Sovereigns. 2^{ly}, Because it is false that God has granted any particular Right to the Kings of *Israel*, contenting himself to give way to the Peoples desire, who would be govern'd by a King like their Neighbours. 3^{ly}, Because whatever the Rights of Royalty may have been amongst the Jews, it is certain they have been abolish'd by an Order of Providence, which has wholly destroy'd the State of the Jews, and the Rights of their Kings. We don't find that *Jesus Christ* oblig'd his Followers to regulate their Obedience to Sovereigns, according to the Measure of Obedience the Jews rendred to their Kings. 4^{ly}, Neither do we see, that the Jews since their dispersion did ever take part with Tyrants, when the States where they liv'd rejected them, or that they thought themselves oblig'd thereto by the Law. 5^{ly}, We should be forc'd to suppose that all the Christian States, and all the Bishops and Pastors in the Churches and States without the Roman Empire, had been pitifully mistaken in not following or recommending this Judaical Form of Despotical Royalty, and purely Tyrannical, describ'd by *Samuel*; which is so strangely extravagant, that it is unworthy to insist on the refutation of it.

C H A P. XI.

Concerning the Royal Law in favour of the Roman Emperors.

TIS a difficult thing to understand the Nature of the Western Governments, without being acquainted with the Nature of the Government of the Roman Emperors, of that Empire, whose Ruin has been the rise of most of the Western Monarchies. Now it is certain, that as Contraries serve to illustrate one another; so the opposition which is found between the Constitution of those Kingdoms, and that of the Roman Empire, will afford us a clear sight of the Characters which distinguish them.

Dion. lib.
53. Tacit.
Annal. lib.
2.

The Lex
Regia con-
sider'd and
explain'd.

We must know then, that in the Year 729. of the City of Rome, *Augustus* and *Norbanus* being Consuls, *Lata est Lex Regia, qua summa & Regia Potestas, quam sibi Populus Romanus ab ejectis Regibus sumpserat, in unum Principem translata est, ita ut is, nulla Legis necessitate teneretur, omnique jure scripto solutus esset; ei vero parerent omnes.* The Royal Law was enacted, whereby the Sovereign and Kingly Power the People of Rome, ever since their rejecting of Kings, had taken to themselves, was transfer'd upon the Prince alone; so that he was not bound to the Law at all, and was exempted from all written Constitutions, but that all were to obey him. This is the true Epocha of the Power which the Roman Emperors had of making Constitutions, and of publishing Answers to Questions of Law propos'd to them.

Antonius Augustinus has publish'd some of the Remains of the Royal Law, which was divided into several Tables. See here some of the chief Articles of it, which *Gruterus* has inserted in his Inscriptions, pag. 242. — — — *foedusve cum quibus volet facere liceat, ita uti licuit Divo Augusto Ti. Julio Casari Augusto, Tiberioque Claudio Casari Augusto Germanico.*

Lex Regia.

Utique ei Senatam habere, relationem facere, remittere, Senatusconsulta per relationem, discessionemque facere liceat, uti licuit Divo Augusto, &c.

Utique cum ex voluntate Authoritateve, jussu mandatuve ejus, præsenteve eo Senatus habeatur, omnium rerum jus perinde habeatur, servetur, ac si e lege Senatus edictus esset, habereturque.

Utique quos Magistratus potestatem, Imperium, Curationemve, cujus rei petentes Senatui Populoque Rom. commendaverit, quibusque suffragationem suam dederit, promiserit, eorum Comitibus quibusque, extra ordinem ratio habeatur.

Utique ei fines Pomærii proferre, promovere, cum ex Republica censebit, esse liceat, ita uti licuit Ti. Claudio Casari Augusto.

Utique quacunque ex usu, Reipublicæ Majestate, Divinarum, Humanarum, Publicarum Privatarumque rerum, esse censebit ei agere, facere jus potestasque sit, ita ut Divo Augusto, Tiberioque Julio Casari Augusto, Tiberioque Claudio Casari Augusto Germanico fuit.

Utique

Utique quibus Legibus, Plebisvescitis scriptum fuit, ne Divus Augustus Tiberiusve Julius Cæsar Augustus, Tiberiusve Claudius Cæsar Augustus Germanicus tenerentur, his Legibus Plebisvescitis, Imperator Cæsar Vespasianus solutus sit, quæq; ex quaq; Lege, rogatione Divum Augustum, Tiberiumve Julium Cæsarem, Tiberiumve Claudium Cæsarem Augustum Germanicum facere oportuit, ea omnia Cæsari Vespasiano Augusto facere liceat.

Utique quæcunque ante hanc Legem Rogatam acta, gesta, decreta, imperata, ab Imperatore Cæsare Vespasiano Augusto jussu mandatuve ejus a quoquo sunt, ea perinde jura rataque sint, ac si Populi plebisve jussu acta essent.

S A N C T I O.

Si quis hujusce Legis ergo, adversus Leges, Rogationes, Plebisvescita, Senatusve-consulta fecit, fecerit, sive quod eum ex Lege Rogationeve, Plebisvescito, S ve C. facere oportebit, non fecerit hujus Legis ergo, id ei ne fraudi esto, neve quis ob eam rem Populo dare debito, neve cui ea de re actio, neve Judicatio esto. Neve quis de eare apud se agi finito.

These are the chief Articles of the Royal Law, which were engraven in Marble, from whence Antonius Augustinus copied them. This Marble stood in the Palace of St. John of Lateran, and was engraven under the Reign of Vespasian.

We are to observe, for the better understanding of this Law ;

1st, That it was extorted, *Vi & Metu*, by Force and Fear, as *Dion Cassius* tells us, *Lib. 53*. Indeed we read in *Cicero* against *Verres*, *Regiè seu potius Tyrannicè statuit* ; He ordain'd King-like, or rather Tyrant-like. There is but little appearance that the Law was call'd *Lex Regia*, or the Royal Law, the Emperors chusing rather to take that Title, which signify'd only the General of an Army, than that of Kings, which the People of Rome had an horror for, ever since the *Tarquins*. And *Dion Cassius* relates in the before-cited place, with what sweetness *Augustus* always carry'd it towards the Senate, and how great a share he left in the Administration of the Affairs of the Empire, reserving chiefly for himself the Care and Conduct of the Provinces, which were expos'd to the Violence of Enemies.

How obtain'd.

By force and fear.

2ly, That the wisest of the Roman Emperors have condemn'd the Government which this Law supposeth, for a Tyrannical Government. This was the Judgment of the Emperor *Pertinax*, in a Speech of his to the Senate, set down by *Herodian*, pag. 372. Edit. Steph.

'Tis condemn'd by the best Emperors.

3ly, That after all, *Justinian* agrees, that the People of Rome had transfer'd all the Power upon the Person of the Emperor : See how he expresseth himself ; *Cum enim Lege antiquâ, qua Regia nuncupatur, omne jus, omnisque potestas Populi Rom. in Imperatoriam translata sint potestatem. Lib. 4. cod. de veter. Jure enucleando, & tit. de Jure Naturæ & Gentium & Civili.*

Emperors not set above all Laws thereby.

4ly, That by this Law the Roman Emperors were not above all Laws, but some Laws only, being subject to the rest as well as any of their Subjects.

5ly, That the Power which the People of Rome had granted to their Emperors, expir'd together with them, and was fain to be renew'd upon every Succession.

6ly, That whatever was done in virtue of this Law, before such renewal of it, did make the Doer of right liable to Punishment.

But however thus much is apparent, that tho the Roman Emperors were above certain Laws ; yet they had not wholly depriv'd the Commonwealth of their Authority, nor the People of their Liberty, of which we can give some very evident Instances.

Lex Regia destroy'd not Liberty.

1st, This Royal Law did not overthrow the Propriety of the Subject, as appears from the recital of *Bodin* concerning *Justinian*, who himself was oblig'd to demand leave of a Widow to pull down her House, to build the Church of *Sancta Sophia*, which she had refus'd the Lords he had sent to desire her to surrender her House to him.

Nor Property.

2ly, It did not expose the Subjects to the blind Fury of the Emperors, otherwise it would have been a great Folly in *Theodosius* to have undergone the publick Penance which *St. Ambrose* laid upon him, for having caus'd some of the Inhabitants of *Theſſalonica* to be murder'd by his Soldiers, for assisting in a popular Sedition, where a General of his Army had been kill'd.

Nor expos'd the People to the fury of the Soldiers.

3ly, The Emperors never pretended that the People were become their Slaves : in which Point the Romans differ'd from the Persians, which made *Lactantius* say, speaking of *Maximian*, as of a Tyrant ; *Post divectos Persas, quorum hic ritus, hic mos*

People of Rome not Slaves.

est,

est, ut Regibus suis in Servitium se addicant, & Reges Populo suo tanquam familia utantur, hunc morem nefarius homo in Romanam terram voluit inducere, quem ex illo tempore victoriæ, sine pudore, laudabat. After he had overcome the Persians, whose Custom and manner it is to be Slaves to their Kings, the Kings using their People as their Servants and Domesticks, this wicked Man was willing to introduce the same Custom amongst the Romans, which from the time of this his Victory he commended without all shame.

No alterations in the Laws.

4ly, The Emperors made no Alterations in the Laws, tho they attributed to themselves the Right of interpreting them, and to enact new ones upon emergent Occasions.

The Emperor's Power.

The Right of assembling the Senate, and the Nomination to Offices and Places of Trust, as well as the Power of appointing Governours in the Provinces, which before were left to the disposal of the Senate, was the greatest Right of the Emperors.

The Right of making Peace and War, was of the same Nature: There was only this difference, *viz.* That this Right was granted to the Emperors for ever, whereas it was but rarely granted to the Generals which Rome formerly nominated.

And as for the Right of not being subject to Laws, that was only a Right limited to certain Laws, and was not to be understood with respect to all Laws whatsoever; accordingly we see, 1st, That the Emperor Constantine expresseth himself thus: *Contra Jus rescripta non valeant, quocunque modo fuerint impetrata. Quod enim publica Jura præscribunt, magis sequi Judices debent.* Orders contrary to Law are invalid, which way soever they be obtain'd. For the Judges ought to keep themselves to what the publick Laws prescribe, *Lib. 1. cod. Theod. de divers. rescript.* The Emperors Theodosius and Valentinian speak yet more expressly; *Digna vox est Majestate Regnantis, legibus alligatum se principem profiteri. Adeo de Autoritate Juris nostra pendet Autoritas.* It is a saying worthy of the Majesty of a Ruler, for a Prince to profess himself bound by the Laws: so far does all our Authority depend upon the Authority of the Law. *Lib. 4. cod. de Leg. & constitut. Princip.* We see in the second place, that the Senate sentences Nero, without believing that by this Act they violated the Oaths they swore to the Emperors every New-years day. The Senate declares some Emperors, as Heliogabalus, Enemies of the State, and arm their Subjects to destroy them, and make void all their Acts: which makes it evident, that tho the Emperors often boast themselves of their not being ty'd to Law, yet they were fain to approve the Proceedings of the Senate against their Predecessors. The Reason of this Conduct is, that tho it be a general Compact of Humane Society to obey Kings, as St. Austin speaks, *lib. 3. confess. c. 8.* yet it is no less notorions, that this Compact doth not respect Tyrants.

Trajan declares against arbitrary Government.

Accordingly we see that the wisest of the Emperors did so little believe that it was lawful for them to govern arbitrarily, that Trajan, in favour of whom the Royal Law was renew'd, at the time of his Exaltation to the Empire, addresseth himself in these words to the Prefect of the *Prætorium*; *Accipe hunc gladium, pro me si recte agam; sin aliter, in me magis; quod moderatorem omnium errare minus fas sit.* Take this Sword and use it for me, in case I rule well; but if not, rather against me; because it less becomes him that rules over all, than it does others, to commit an Error. *Dion. & Aurel. Victor.*

2ly, That the Emperors, who were most renown'd for Virtue, did never affect to publish any Laws of their own Heads, till after they had got them approv'd by the Senate. This is that which Lampridius records concerning Alexander Severus; and we see the same practis'd by Theodosius, *l. Humanum C. de F.*

But whatever this Royal Law may have been, sure it is,

The Lex Regia does not concern us.

1st, That the same was abolish'd together with the Roman Empire, which ended in the West with Augustulus.

2ly, That it ceas'd in the East with the Emperors of Constantinople.

3ly, It is certain that they who ruin'd the Empire in the West, did never adopt this Royal Law, to govern their Subjects by that Arbitrary Rule.

4ly, It is also certain that the Princes, who since the Year 800 have succeeded Charles the Great, and who have taken to themselves the Names of Roman Emperors, did not govern according to this Law, nor ever pretended that that Law ought to be observ'd in favour of them, under pretence of their bearing the Title of Roman Emperors.

This

This is that, which I believe it will be of use solidly to evince, tho I intend to do it very compendiously, that I may not tire the Reader.

C H A P. XII.

The States of the West, and of the North, never knew this Royal Law.

TH O the People of the *West* allow'd their Princes the Title of King, yet it may be averr'd, that the most part of those Kingdoms, which had their Rise from the Ruins of the *Roman Empire*, never own'd this Royal Law. The Power of their Kings was originally limited, as *Cæsar* witnesseth in his Commentaries concerning the *German Kings*, which were, to speak properly, only Commanders or Generals. I make particular mention of the *Germans*, because, for the most part, they were the Founders of the Northern and Western Kingdoms; *Germany* having been, as it were, the Nursery, from whence have proceeded most of those Nations, who at this Day have any Name in *Europe*. See what *Tacitus* asserts concerning the *German Kings*; *Nec Germanorum Regibus infinita aut libera potestas est; de minoribus rebus Principes consultant, de majoribus omnes. Rex aut Princeps auditur Autoritate suadendi, magis quam jubendi potestate; si displicuit sententia, fremitu aspernantur.* Neither is the Power of the *German Kings* altogether free or unbounded. Matters of lesser Moment are left to the Advice of the Princes, but those of greater Concern are debated by the whole Society; they hear the King as one having Authority to persuade, rather than any Power to command them; and if his Sentiments displease them, they are rejected with boldness.

The Power of the Western Kings limited.

Cæsar gives us much the same portraiture of the Kings of the *Gauls*.

And that their Successors, who tore the *Roman Empire* to pieces, have retain'd this form of a limited Monarchy, is matter of incontestable Evidence, to every one that will take a little pains to peruse the Histories of those Nations, to run over their Laws, and take notice how they have carry'd it towards their Kings whenever they fell to Tyranny.

They who would be inform'd how far the Power of the Gothick Kings in *Spain* was limited, need only cast their Eyes upon the account which *Gregory of Tours* gives us, *lib. 2. cap. 31.* concerning this Matter, and upon their History in the Chronicle of *St. Isidorus*. We have the fundamental Laws of their Kingdom set down by *Molina, de Hispan. Primogenit. cap. 2. n. 13.*

Power of the Gothick Kings limited.

But this appears yet more clearly from the Body of their Laws, which is still extant, and publish'd by *Lindenberg*.

Several Instances thereof.

1st. It appears that their Laws were enacted *ex universali consensu Civium & Populi*, by the universal Consent of the Citizens and People, *Lib. 1. Tit. 7.*

2^{ly}. It appears that the Kings were no less obnoxious to the Laws, than the Subjects themselves, *Lib. 2. Tit. 2.*

3^{ly}. It appears not that the *Roman Laws*, and much less their Royal Law, had any Authority amongst them. *Lib. 2. Tit. 9.*

4^{ly}. It appears, that their Kings had not so much as the Power to pardon Crimes, without the consent of the Bishops, and chief Lords, *Lib. 6. Tit. 7.*

Lastly, It is evident from their History, that their Kings were liable to be depos'd by the States, whenever they went about to transgress their Bounds, and tyrannize over their Subjects.

I confess, that the Council of *Toledo IV.* in their last Canon thus express themselves: *Quicumque amodo ex nobis, vel totius Hispaniæ Populis, qualibet conjuratione vel studio, sacramentum fidei suæ, quod pro Patriæ Gentisve Gothorum statu, vel conservatione Regiæ salutis (vel incolumitate Regiæ Potestatis) pollicitus est, temeraverit, aut potestate Regni exuerit, aut præsumptione Tyrannicâ Regni fastigium occupaverit, Anathema in conspectu Dei Patris & Angelorum, atque ab Ecclesia Catholica, quam perjurio profanaverit, efficiatur extraneus, & ab omni Cœtu Christianorum alienus, cum omnibus impietatis suæ sociis: quia oportet ut una pœna teneat obnoxios, quos similis error invenerit implicatos.* Whosoever from this time forwards, either of us, or of any of the People of *Spain*, shall by any Conspiracy or Attempt, break the Oath of his Fidelity he has taken for the Welfare of his Country, and the Gothick Nation, the Conservation of the King's Life, and Maintenance of the Royal Power; or who shall deprive him of his Kingdom, or by a Tyrannical Presumption usurp the Throne,

Canon of the Council of Toledo explain'd.

Throne, let him be *Anathema* in the sight of God the Father, and the Angels, and be cast out from the Catholick Church, which he has profan'd by his Perjury, and be turn'd out of all Christian Assemblies, with all the Complices and Associates of his Wickedness; because it is but fit that all they should be liable to the same Punishment, who are involv'd in the same Crime. The same is repeated in the Council of Toledo V. cap. 1. and in the Council of Toledo X. cap. 2. But we may affirm with Truth, that those who have worn this Canon thredbare by their frequent citing of it, did either not understand it, or chang'd the sense of it to impose upon and delude others.

Wherefore let those that read these words well observe;

And vindicated.

1st. The Order which the Fathers of the Council of Toledo IV. observe in speaking of Oaths, *Sacramentum fidei suæ, quod pro Patriæ, Gentisque Gothorum statu, vel conservatione Regiæ salutis (vel incolumitate Regiæ potestatis) pollicitus est*. I own it is to be consider'd, that the [*vel*] here signifies as much as [*&*] this being the common stile of those Times. I say it is remarkable, that the good and happy State of the Nation was the first Object of their Oaths; the second Object was join'd with it, viz. the Conservation of the King, yet with the understood *Proviso*, if he did not oppose the first, but was subservient to it: For indeed, I cannot believe that God made the *Goths* of another nature than the rest of Mankind, or so much Fools (enough) as to prefer the Means before the End; and to believe that they ought to engage themselves to seek the Means, any further than they are of use to obtain the End. *Ad Tutelam Legis Subditorum Rex creatus est*. The King, saith Chancellor *Fortescue*, is made for a Safeguard to the Subjects Laws. The Preservation of the Subject is the first Obligation, and the next that of the Prince.

2^{ly}. We must observe, that the words of the Canon regard those, who by a Conspiracy undertake either to kill the King, or to deprive him of his Kingdom, or to usurp the Throne by a tyrannical Presumption. But all this while they suppose a lawful King, that is to say, a King acknowledg'd as such by the State, attack'd by some furious Conspirators with design to dethrone him, against all Right and Justice, for to place another in his stead. The Council does not in the least suppose that it is unlawful for the State to deprive a Tyrant of the Authority he abuseth. If we suppose the contrary, we must take St. *Isidore*, who was President of that Council, for a Fool, fit to be shut up in *Bedlam*; for he expressly makes this Observation, That *Rex à rectè agendo vocatur; si enim pie & justè & misericorditer agit, merito Rex appellatur: si his caruerit, non Rex sed Tyrannus est*. Addit. 2. ad Cap. Caroli Magni, c. 21.

Council of Toledo makes against Passive Obedience.

3^{ly}. I maintain, that of all the Passages of Antiquity which are alledg'd by the Defenders of Passive Obedience, there is not any to be found which they ought to have been more careful to suppress in silence than that of this Council. And we must judg them possess'd with a brutal Stupidity, or guilty of strange Malice, in employing such a Passage as this to support their Prejudices in favour of those Princes who overturn the Government: For who were these Fathers of the 4th Council of Toledo? They were the very Men, who three Years before this Council had cast off *Suintila*, after he had reign'd ten Years over them; who had rais'd *Sisnandus* in his room, against whom they justly fear'd that some furious Fellows might hatch a Conspiracy. They were the Men who pronounc'd three *Anathema's* against *Suintila* for the Crimes he had been found guilty of whilst he was possess'd of the Royal Power. They were the Men who declar'd, That if a King does not well acquit himself of the high Charge he is intrusted with, he ought to be excommunicated, and consequently depriv'd of all Power in his Kingdom. All which is contain'd in Chap. 75. of the same Council, where they observe, that the Election of Kings took place after the Death of their Fathers. Which makes it apparent, that there is no ground at all to suspect the *Goths*, or the Bishops of *Spain* and of *Gallia Narbonensis*, who assisted at that Council, to have espous'd the Maxims that some would fix upon them.

The *Lombards* observ'd the same Rules in their Government, as we may see in their History written by *Paulus Diaconus*.

After Carol. M. the Power of Kings limited.

And as for what the other Kingdoms that were form'd of the Ruins of the Empire of *Charles the Great*, we find that their Power was always limited in the same manner, none of those Princes having ever thought of reviving the Royal Law of the Ancient Roman Emperors in favour of themselves.

And

And because this Affair bears so great a resemblance with the present Revolution, I desire the Reader not to take it ill, that I have copied the 75th Canon of the 4th Council of *Toledo* at the end of these Remarks, that he may make his Reflections thereupon: for he will find that those who make use of it, have no reason to complain, That they who have made choice of the Prince of *Orange*, upon the desertion of *James II.* after so many unjust Proceedings and Enterprizes tending to the total overthrow of the State and Government, have exactly follow'd this Example of the Kingdom of *Spain*; and that the Clergy who have follow'd these Decisions of State, have therein imitated the Conduct of this Council of *Toledo*; and that those who oppose themselves against it, are found in the same Case with those whom the Church of *Spain* and of *Gallia Narbonensis* did so solemnly excommunicate.

The Kings of *Burgundy* reign'd with the same Limitations: For which we may consult the Law of *Gondebaud* which is still extant, and which was made, *Habito Consilio Comitum & Procerum*, with the Advice of the Earls and Lords, who sign'd the Law as well as King *Gondebaud*: which makes it very evident that the Kings of this People had not the Legislative Power vested in them alone. We find the same Clause in the second Addition to that Law: And indeed we need only to take notice of what *Marius Aventicensis* relates concerning K. *Sigismond* in his Chronicle, to enable us to judg that those People had other Laws besides that of the Will of their Princes. For this Prince having caus'd his Son to be strangled without any Form of Justice, his Subjects conceiv'd so great an Indignation against him, that he was forc'd to hide himself, and to take upon him a Fryar's Habit for a Mark of his Repentance; which yet was not able to give them Satisfaction, for as soon as he appear'd, they deliver'd him to *Clodomer* King of *Orleans*, who carry'd him to *France*, where soon after he lost his Life in a tragical manner.

We find Instances of the sharing of the Sovereign Power between the Lords and the King in the Antient Histories of *Sweden*, as may be seen in *Joan. Magnus, Hist. lib. 15, & 29.* and in *Crantzius, lib. 5.* We find also that by the Oaths taken at the Coronation of their Kings, the Bishops, Nobles, Citizens and People oblige themselves, in case the King commit any thing by himself, or by another, contrary to the Articles or Treaty he swears to at his Coronation, to oppose themselves to his Enterprizes upon their Honour, and upon their Oath; *Chytræus, lib. 2.* They who do not know the manner of the States of *Sweden* deposing of *Sigismond*, and the Reasons they alledg'd for it to King *James*, may peruse the Relation of it in *Goldast*.

We find the same Limitations of the Regal Power in *Denmark*, as *Pontanus* observes in his 8th Book; and it was for endeavouring to break through these Bounds, that *Christiern* the Second was depos'd, as may be seen in *Petersen, in Chron. Holsat.* where he hath set down the Acts and Reasons of the States of *Denmark* about that Proceeding.

That the Power of the Kings of *Hungary* was a Power limited by the Fundamental Laws of the State, is a Matter so notorious, that *Chalcondilas* has made it his Observation, in the second Book of his History, where he compares the Royalty of *Hungary* in that respect to the Kingly Power in *England*: And which may be farther made out by the Fundamental Laws of *Hungary*, set down by *Bonfinius, Decad. 4. lib. 9.* where we also find the Oath taken by those Kings at their Coronation, being the most expressly conditional that can be imagin'd.

Chalcondile saith the same thing of the Kingdoms of *Arragon* and *Navarre*, lib. 5. where he observes, that the Kings did not create the Magistrates, that they could not fix any Garison without the Consent of the People, and that they could not require any thing of them contrary to their Customs, that is to say, contrary to their Laws. Accordingly we find that the Kings of *Spain* have no Power to lay any new Impositions upon their Subjects without their Consent: They are oblig'd to swear they will observe the Laws. And in *Arragon* the People declare to the Kings at their Coronation, that if they do not perform their Oath and Promise, their Subjects are thereby set free from their Oath of Allegiance.

We find the same thing in the History of the Kingdom of *Portugal*, but especially in that part of it which gives an Account of the Reign of *Alphonfus III.* The Fundamental Laws of which Kingdom we find in the 17th Title of the Ordinances of *Portugal, Lib. 2. Sect. 2, 3, & seq.*

So true is it that all those Kingdoms never in the least suppos'd that their Kings had an Absolute Power over them. And it is as certain, that almost all those States have

Inferences
upon the
whole.

always maintain'd, That the Power of their Sovereigns was so limited.

1. That they could make no Laws without the States General of the Kingdom.
2. That they could not levy any Money on their Subjects without their Consents.
3. That they could not break the Laws according to their Will and Pleasure.
4. That in case of their violating the Fundamental Laws of the State, they were liable to be depriv'd of a Power which they abus'd.
5. That the States were free to chuse such a Form of Government, and such a Person to govern them as they thought most fit.

This is that which I intend to prove more particularly by Examples taken from the Empire, and the Kingdoms of *Poland, France, Scotland, and England*; to which I shall add some Remarks upon those Titles which deceive some, who consider Things of this nature with too little attention.

C H A P. XIII.

That the Power of the Emperors of the West is a Limited Power.

THIS is a Matter that may be easily gather'd from these following Instances:

Charles
the Great
govern'd by
Limited
Power.

Lewis the
Good, Em-
peror.

1. Because *Charles the Great*, who was the first that took upon him the Title of *Roman Emperor*, reign'd according to the Customs of the Princes of *Germany*; of whose Opinion concerning an Absolute and Despotical Government, *Tacitus* has given us some Account, who represents them as having the greatest abhorrence of it.

2. Because *Lewis the Good* did himself acknowledg, that the Sovereign Power was shared between him and the chief Members of the Empire; *Capitular. Lib. 2. Tit. 3. Sed quanquam summa hujus Ministerii in nostra persona consistere videatur, tamen & Divinâ Authoritate, & humanâ ordinatione, ita per partes divisum esse cognoscitur, ut unusquisque vestrum in suo loco & ordine, partem nostri Ministerii habere cognoscatur.* But tho the whole of this Ministry seem to consist in our Person, yet it is known to be so shar'd and divided, as well by Divine Authority as Humane Ordination, that every one of you in his respective Place and Order, is known to partake of this Ministry. Thus was he pleas'd to express himself in the Assembly of the States General, whose Authority he own'd to be as much of Divine Right as his own; which made *Charles du Moulin*, the most famous of all *French* Lawyers, say, *Ergo solum Caput non omnia potest, imo persona Principis non est Caput nisi Organicum; sed verum Caput est Principatus ipse, cum membris integrantibus eum*: Wherefore the Head alone cannot do all, yea the Person of the Prince is only the Organical Head; but the true Head is the Principality it self, with its integral constituting Members. Which are his express Words in his Commentaries upon the Stile of Parliament, dedicated to the first President of *Paris*, and printed with Privilege.

3. Because tho the Western Empire did seem to be so Hereditary, that the Emperors had divided it amongst their Children; yet in process of Time it became Elective, which began to take place in the Eleventh Century, in the Person of *Rudolphus*.

4. In that they always excluded Females from the Succession to the Empire, tho they had respect in their Choice to the Imperial Blood.

With respect to the Rights of Sovereignty we find, that tho the Empire be a Monarchical Government, yet we see it is mix'd with Aristocracy; for the Emperor cannot enjoy it but with the Consent of the States of the Empire, without making himself liable to be contradicted and deposed also.

He has not the Right of making Laws, without the Consent and Authority of the States of the Empire.

He has no Right to declare War, without the foregoing consent of the States.

He has no right of levying any Imposition on the States, without the Consent of the Diets.

When

Whenever he begins to usurp the Rights that do not belong unto him, and to infringe the Rules of Government he has sworn to observe, the States have a Right to oppose his Enterprizes, to repel Force with Force, and finally to deprive him of the Empire, in case he continue in the Design of changing the Form of Government. For tho there be no Laws, which bound and regulate the Article of the deposing of Emperors, when they abuse their Power for the overturning of the State, or for invading the Rights of the Princes of the Empire, and Imperial Cities; yet the *Germans* have always held, and still do hold it for a certain Truth, that it is a Right inherent in the Empire, to deprive an Emperor of the Imperial Power and Dignity, and to confer the same on another. This is the common Opinion of the *German Lawyers* represented to us by *Lampadius, Arnizæus, Diderick, Conring,* and many others.

Resistance
allow'd of.

And indeed we may say, that there is nothing more certain, if we consider the Examples of Emperors that have been depos'd within these 7 or 800 Years; Examples that are neither rare nor unknown, and upon occasion of which the States of the Empire have had an opportunity to declare and make out their Rights and Pretensions. One of the first Examples we find respecting this Matter, is the Deposition of *Lewis the Good*, in the Year 833. The Acts whereof we may see in *Baronius, Goldast, du Chesne, and le Comte*: Whereupon we may make these Reflections.

Emperors
depos'd.

1. That the thing was done with the Consent of the Bishops, and of all the Nobility. 2. That the Estates above all accuse him for having broke his Coronation Oath. 3. That tho this *Lewis* was afterwards restor'd to the Throne of the Empire, yet those that restor'd him, never contested the Power the States had to reject a Prince who overturn'd the Rules of Government, but suppos'd only that he had not been duly convicted of the Crimes laid to his charge.

We have another Example in the Deposition of *Henry IV.* The Archbishops, Bishops, Dukes and Earls, declare, that they had not sworn to him till after he had engag'd himself by his Oath to them, to observe the Laws and the Capitulations of the Empire: so that having now violated them, they were set free from the Oath they had sworn to him, and that they consider'd him as an Enemy, against whom they would wage War to their last breath. *Lambert Schafnaburg.*

The Deposition of
Hen. IV. Emperor.

One of the last Instances we find in the deposing of the Emperor *Wenceslaus*, who was depos'd by the Electors of the Empire in the Year 1400, after that he had been twice taken Prisoner, and had been exhorted by the States to amend and take up from his irregular Actings. *Aventin. lib. 7. Annalium, & Cuspinian. in Vita Wenceslai.* We may see the most part of these Articles, and many more solidly confirm'd in the Book of *Carpsovius, de Lege Regia Imperatorum Germaniæ*, and in the Imperial Capitulations, and other Laws which he has caus'd to be printed at the end of his Treatise.

Of the Em-
peror Wenceslaus.

C H A P. XIV.

That the Power of the Kings of Poland is limited.

WE find the same Limitation in other States, whether they be Successive or Elective. I shall content my self to alledg only one Example concerning the Kingdoms that at present are Elective, and that shall be of the Kingdom of Poland.

Poland, from the Relation of *Cromer*, gives us an illustrious Example of the Wisdom of the Northern People in bounding the Power of their Princes. After that the Family of *Lech*, the first Founder of that Kingdom, was extinct, that State chang'd the Royal Government into that of XII *Waywods*, otherwise call'd *Palatines*. These Palatines abusing their Authority, they re-establish'd the Regal Government in favour of *Cracus*, whose second Son was expell'd by the *Polanders* for killing his elder Brother.

Limitations of the
Regal Power in
Poland.

They afterwards chose the Daughter of *Cracus* for their Queen, who, 'tis said, having drowned her self to avoid Marriage, the *Polanders* again establish'd Twelve *Palatines* as they had done before: But afterwards suppress'd them again, because they found them insufficient to defend the Country, and chose *Premiel* for their King. This is *Lesko* the First, who liv'd about the Year 750. It was not till the Year 965 that *Miesco* turn'd Christian, and took upon him the Title of King of Poland.

Instances.

Poland, which Title was confirm'd by the Emperor *Otto* the Third to *Bosletas* his Successor.

His Successors having reign'd until *Lesko* surnam'd the *Black*, who was forc'd by flight to quit the Kingdom, because he was not able to resist the *Tartars*, and died without Issue; the Poles wearied with Intestine Wars, excited by the Ambition of their great Lords, chose *Premiel* to be their King, who being kill'd, without leaving any Children behind him, they made choice of *Ladislaus*, who was afterwards depos'd for Male-administration by the States-General. *Wenceslaus* King of *Bohemia*, who had been chosen in his stead, dying in the Year 1305, *Ladislaus* was recall'd to the Government, to whom *Casimir* his Son succeeded; who in the Year 1370, design'd for his Successor, with Consent of the States, *Lewis*, the Son of *Charles* King of *Hungary* by his Sister. The Poles after the death of *Lewis*, chose *Edwiga* his Daughter, upon condition that she should marry the Person whom the States should recommend to her for a Husband: the Person recommended by them was *Jagello* Duke of *Lithuania*, who had the Name of *Ladislaus* given him by the Archbishop of *Gnesna*, who anointed and crowned, after he had first baptiz'd him. He outliv'd *Edwiga* who died without Children, and had for Successors the Children of his fourth Wife, who reach'd until *Sigismund Augustus*; after whose Death the States chose, in the Year 1573, *Henry* Duke of *Anjou*, who after he had reign'd four Months in *Poland*, abandon'd the Kingdom to take possession of the Crown of *France*, and was depriv'd of that of *Poland* by the States, as may be seen from the Acts recorded by Historians. This Vacancy occasion'd a Division in the States, one part of them having chosen the Emperor *Maximilian* the Second; and the other part *Anne* the Sister of *Sigismund Augustus*, to whom they gave *Stephen Batori* Prince of *Transylvania* for her Husband, who marry'd the said *Anne*, and was crown'd at *Cracovia* in 1576. After the Death of *Stephen*, the States chose *Sigismund* Son of *John III.* King of *Sweden*, and of *Katherine* Daughter of *Sigismund I.* of that Name, King of *Poland*.

Polanders
reserv'd a
Liberty to
themselves.

It is evident from this Abridgment;

1st. That the Poles always pretended to be the Masters that had right to give the Form to their State, which seem'd to them most comporting with the Good and Welfare of it.

2^{ly}. That they took it for granted that they had Power to reject those Princes or Palatines, whose Behaviour was contrary to the Publick Good, for which they had rais'd them.

3^{ly}. That they ever had an eye to Succession, so far as to bestow the Crown sometimes upon Daughters; yet not thinking themselves bound to it, but only so far as the good of the State did permit.

4^{ly}. That they had regard to the appointing of a Successor, when the States had first consented to it.

5^{ly}. That the Flight or Desertion of their Kings, has appear'd to them a sufficient Ground to proceed to a new Election in their stead, and to reject them. This is evident from the History of *Lesko*, surnam'd the *Black*, and of *Henry* the Third of *France*.

6^{ly}. That the anointing and crowning of their Kings, was of no avail to dispense with their Oath, in which they publicly declare, That if they do not observe the Laws of the State, the People are dispens'd from their Oaths of Fealty they have sworn to them.

CHAP. XV.

That the Monarchy of France is not an Absolute Empire, but a Limited Royalty.

TIS not of to day only that some have imagin'd the Monarchy of *France* to be an unlimited Power, and an Absolute Empire. *Bodin* was of that Opinion before them; but they that follow his Sentiment, understand nothing of that Constitution; or if they do, have a greater desire to flatter the unjust Pretensions of that Court, than to maintain the Truth.

We need only to lay open the Nature and antient Power of the States General, with the manner of their Behaviour towards those Kings, who abused the Power committed

committed to them, to make it evident that the *French* Monarchy is limited in its Constitution.

Under the first and second Race of the Kings of *France*, there was no mention of any Assembly of the States General, but only of the *Franks*, that is to say, the Nobles and Prelats, who were used to meet together on the first of *May* in the open Field, where they deliberated with the King concerning Matters of Peace and War, and took Resolutions of what was to be done all the Year after. After the breaking up of this Assembly, the Court of the Royal Palace, otherwise call'd the Court of *France*, compos'd of the Prelats and great Barons, that is to say, the immediate Vassals of the Crown, met together five or six times a Year to take care of the Execution of what had been resolv'd upon in the General Assembly, to deliberate about Publick Affairs that offer'd themselves, and to determine as Judges the most important Matters of private Persons.

Power of
the antient
Kings of
France.

Under the declination of the second Race, the Governors of Cities and Provinces, having made themselves Hereditary Lords of the Places of their respective Governments, under the Title of Counties and Dutchies, cut themselves large Portions out of the Sovereign's Lands: By which means the Court of *France* was no more frequented by the Lords, except only when they were oblig'd to do Homage, and take the Oath of Fidelity, or when an Enemy invaded *France*; for then they presented themselves before the King to advise about the present Necessity. This Disorder continu'd until the Reign of *Philip Augustus*, who having conquer'd *Normandy*, and the Counties of *Tourain*, *Anjou*, *Maine*, from *John without Land*, King of *England*, and the Country of *Vermendois* from the Earl of *Flanders*; restor'd in some manner the Royal Authority, and forc'd the Barons to frequent his Court, and to be present at the Assemblies he call'd for the Affairs and Necessities of State. Nevertheless those Assemblies consisted only of the Prelats and Barons, and this till the Reign of King *John* (some Authors say of *St. Lewis*) who being taken at the Battel of *Poitiers* and carried to *England*, they were forc'd to raise a great Sum of Money for his Ransom: and to this end they apply'd themselves to the Merchants, and other Inhabitants of Cities, who were then the richest Men of the Kingdom, who agreed to pay the King's Ransom, upon condition that they might be receiv'd into the Charges and Offices, as well of Peace as of War; and be allow'd to have a Place and deliberative Vote in the States General, which was accordingly granted to them.

Kings of
the second
Race.

The Power and Prerogative of the States-General was such, that the Kings of *France* could not make any new Levies of Money without them. Which continu'd so till the Reign of *Charles VII.* as is acknowledg'd by *Philip de Commines*, Lib. 6. cap. 7. Neither could they make any new Ordinances, nor repeal or suppress the old, without the Consent of the said States, as is own'd by *Davila*, lib. 2. de li Guerri Civili.

Power of
the States
of France.

Under the first and second Race of the *French* Kings, the Ordinances were likewise made in the Assembly of the Prelats and Barons, which constituted the Sovereign Court of *France*; 'twas there the Treaties of Peace were made between the Kings of *France* and Foreign Princes and Nations: The Portions of the Children of *France* were there regulated; there they treated of their Marriages, and generally of all that concern'd the Affairs of State, of the King's Household, and the Children of *France*. The Ordinances that were made in the said Assemblies, in the Name of the Kings of *France*, were conceiv'd in these Terms; *Nos de consilio & consensu Procerum nostrorum statuimus, &c.* We with the Advice and Consent of our Lords do ordain. And from hence is deriv'd the Custom observ'd at this day, of verifying the Royal Edicts in the Parliament of *Paris*, which in some sort represents the Assembly of the Prelats and Barons who compos'd, as we have said, the Sovereign Court of *France*.

Laws made
in the As-
sembly of
the States.

In the Treasury of the *French* Kings at *Chartres*, are found several Treaties between King *Philip Augustus*, and *Richard* and *John without Land*, Kings of *England*, at the bottom of which are the Seals of the Prelats and Barons, by whose Consent and Approbation the said Treaties had been made. And Pope *Innocent* the Sixth having sent to entreat *St. Lewis* that he would be pleas'd to permit him to retire into *France*, to secure himself from the Attempts of *Frederick* the Second; the said King answer'd the Pope's Nuncio, that he would communicate the Matter to his Parliament, without whose Consent the Kings of *France* could do nothing of Importance. This is related by *Matthew Paris* in the Life of *Henry* the Third King of *England*, ad Annum 1244.

Treaties
made.

All State
Affairs
how trans-
acted.

We find also the manner how the States determin'd all Affairs respecting the Crown and Succession, as for example the Process which was between *Philip de Valois*, and *King Edward*. In this Assembly of the States, saith the Chancellor de l'Hospital, was try'd and debated the most noble Cause that ever was, viz. To whom the Crown of *France* did belong after the Death of *Charles the Fair*, to *Philip of Valois* his Cousin, or to *Edward King of England*; *King Philip* not presiding in that Assembly, because he was not yet King, and besides was a Party.

Power of
the Kings
of France
limited.

It appears clearly from the Power of the States General, that the Power of the King of *France* is bounded by Law. Indeed this is a Truth whereof we cannot make the least doubt, forasmuch as we find it acknowledg'd by *Lewis XI.* the most unbridled Monarch that ever was. See what he writes in the Rosary of War compos'd by him a little before his Death, for the use of *Charles VIII.* his Son. "When Kings or Princes (saith he) have no respect to the Law, they take from the People what they ought to leave them possess'd of, and do not give them what they ought to have; and in so doing they make their People Slaves, and thereby lose the name of a King. For no body can be call'd a King, but he that rules and has Dominion over Free-men.

Own'd by
Strangers.

This thing was so notorious even to Strangers themselves, that *Macchiavel* maintain'd that the Stability of the Monarchy of *France* was owing to this, because the Kings there were oblig'd to a great number of Laws, which prov'd the Security and Safeguard of all their Subjects. *Lib. 1. di Discorsi c. 16.*

And
French
Writers.

Messire Claudius de Seissel, in his Treatise of the *French Monarchy*, part 2. chap. 12. dedicated to *Francis I.* maintains upon this account, that the Monarchy of *France* does partake of Aristocracy, which makes it both more perfect and durable. Yea he asserts that it was also in part Democratical; and expressly maintains that an absolute Monarchy is no other than true Tyranny, when it is made use of against Religion, Justice and the Government; that a Prince who passeth these Bounds, must be held and esteem'd for a wicked Tyrant, cruel and intolerable, who by this means pulls down the hatred of God and his Subjects upon himself.

Du Haillan, Historiographer of the Kings *Henry III.* and *Henry IV.* follows the same notion of *Claudius de Seissel*, in his third Book of the State of the Affairs of *France*, dedicated to *Henry III.* maintaining that the Government of *France* is compos'd of Aristocracy and Democracy, p. 168.

And indeed who can judg otherwise, when he attentively considers these six things, which are a Part of the publick Constitution of the Kingdom of *France*?

1st, That tho the Crown for a long time since has follow'd the Form of Succession, yet the Form of Election is still observ'd at the Coronation. *Hunc vultis, hunc jubetis esse Regem*, This is he whom you will and require to be your King. These Words are spoken to the People before the Coronation. We find the Peoples Election is mention'd, and the King call'd Elect, in the form of Coronation publish'd by *Hugo Menard a Benedictin*.

The King
oblig'd to
rule by
Law.

2^{ly}, The King is there engag'd by his Oath, to rule according to the Laws of the Kingdom; as may be seen in the Ceremonial of *France*.

3^{ly}, He can make no Laws but in the Parliaments or States General; whereof we have an Instance in the States of *Orleans*, in the Year 1560. and is the same with what *D'auila* has observ'd in his 2^d Book of the Civil Wars.

4^{ly}, He can make neither Peace nor War but by the Advice of the States General. This is acknowledg'd by *Lewis XI.* as we find in *Philip de Commynes* 2 Book ch. 14.

5^{ly}, He can raise no Mony but by Concession from the States General. We find this Poin thus decided by the States in 1338, with the Consent of King *Philip*, that no Taxes could be impos'd or levy'd on the People of *France*, unless urgent and evident Necessity did require it, and then only by the grant of the States. *Gila Fol. 157. Philip de Commynes lib. 5. c. 18.* saith with respect to this point: "Is there any King or Lord on the Earth, who has Power, besides his Demesne, to impose so much as a Penny upon his Subjects, without the Grant and Consent of those who are to pay it, except it be by Tyranny and Violence?"

6^{ly}, The Kings of *France* are liable to be depos'd by the States General, in case they abuse the Authority they are entrusted with.

This last Article, viz. of the proceedings of the *French* against those of their Kings who abus'd their Authority, does evidently demonstrate, that the Monarchy of *France* is altogether limited, according to the Platform *Cæsar* gives us of the Government of the antient *Germans* or *Franks*, from whom they are descended.

There

There is a Passage, which is ordinarily abus'd, to prove that unjust Kings and Tyrants cannot be depos'd, wherein *Gregory of Tours* thus expresseth himself to *Chilperic*, *Lib. 5. c. 19.* "If any one of us who are Lords transgresseth the Bounds of Justice, you have the Power to punish him; but if you your self do not keep within them, who is it can correct you? We indeed speak to you, and you hearken to us, if you please; and if you will not, who is it shall condemn you? except he who has said, that he is Righteousness it self. I don't believe there was ever any Author, that undertook to defend the Doctrine of Non-Resistance and Passive Obedience, who has not made use of this Proof: but give me leave to say, that they have quoted this Passage with as much Judgment as they alledg'd the 75th Canon of the 4th Council of *Toledo*. For 1st, observe that this is the Discourse of *Gregory of Tours*, who was accus'd by *Chilperic* for opposing himself to the Justice that Prince demanded of a Council against *Pretextat* Bishop of *Rouen*, whom he accus'd of high Treason; and forasmuch as the Bishops were perswaded of his Innocence, whom they saw attack'd by false Witnesses, this *Gregory* had the Courage to maintain, that it was their Duty to make their Remonstrances to the K. concerning this matter. The King took their Design of remonstrancing him, for an Opposition to the Justice he had demanded; whereupon *Gregory of Tours* made the Discourse just now mention'd. So that it plainly appears, that this Discourse only respects the Order of Bishops, who under that Relation have no other way to redress themselves, with regard to Kings, but only by Remonstrances; but does not at all speak of the Body of the State, who are invested with other Rights, in reference to a King who undertakes to pervert Justice. But to make it appear that *French* men, at that time, did not believe, that Kings had the Privilege, that they could not be depos'd by the States, tho they abus'd their Authority, we need only to consult the History of the deposing of *Childeric*, Father of *Clovis*, which is set down by *Gregory of Tours*, *lib. 2. ch. 11.* and approv'd of by him.

Their proceedings against their arbitrary Kings, as *Chilperic*.

We find that they had preserv'd this their Right by the Deposition of another *Childeric* in the 8th Century, and whereupon it is obvious and natural to make these Reflections.

1. That the *Franks* had the Power of chusing and deposing their Kings.
2. That the Oath they swore to their Kings was conditional, and suppos'd their acquitting themselves of the charge and trust repos'd in them, and which they were oblig'd by Oath to make good.
3. That it is false that King *Childeric* was depos'd by the Authority of Pope *Zachary*, as the Papists have maintain'd; forasmuch as that proceeding was an Act of the States General, who made use of their Right on this Occasion.

Privileges of the *Franks*.

This is so true, that Pope *Zachary* himself laid it down as a Maxim in his Letter to the *Franks*, that this was a Right inherent in the People. *Nam si Princeps Populo, cujus beneficio Regnum possidet, obnoxius est; si Plebs Regem constituit, & destituere potest:* For if a King, saith he, be obnoxious to his People, by whose grant he possesseth his Kingdom; if the People constitute a King, they may also depose him.

If we come to the Race of *Charles* the Great, we find *Lewis* the Good depos'd by the States assembl'd at *Thionville*. The whole proceeding whereof may be seen in *Baronius*, *du Chesne*, *Le Cointe*; where we may observe, 1. That it was done with consent of the Bishops. 2. We see there an Indictment on divers Articles, which contains as many Crimes against the State. 3. When this Deposition was recall'd afterwards, they did annul the Acts of the former Assembly, not as if they had acted without Power, but because they had proceeded on false Accusations, and insufficient Grounds. We find also the same proceeding with respect to *Charles* the Gross, and *Charles* the Simple.

The Carolingian Race. *Lewis* the Good depos'd by the States.

Indeed it was then so notorious, that the Power of the Kings of *France*, tho they took to themselves the Title of Emperors, was limited, the Estates being invested with part of the Sovereign Authority, that *Lewis* the Good solemnly avows the same, *Lib. 2. Capitul. c. 2. & 12.* We find also that the Clergy of *France* was so far convinc'd that the States of the Kingdom had right to dispose of the Crown for the good of the State, that when *Charles* the Bald was chosen by the Kingdom of *Lorraine* in prejudice of the Children of the King his Brother, and that Pope *Adrian II.* wrote to them thereupon by *Hincmar* Archbishop of *Rheims*, threatening to excommunicate them, they sent back this Answer to him by the said *Hincmar*: *Petite Dominum Apostolicum, ut quia Rex & Episcopus simul esse non potest, & sui Antecessores Ecclesiasticum ordinem quod suum est, & non Rempublicam, quod Regum est, disposuerunt,*

States of *France* shar'd in the Sovereignty.

non præcipiat nobis habere Regem, qui nos in sic longinquis partibus adjuvare non posset contra subitaneos & frequentes Paganorum impetus, & nos Francos non jubeat servire, cui nolumus servire, quia istud jugum sui Antecessores nostris Antecessoribus non imposuerunt, & nos illud portare non possumus, qui scriptum esse in sanctis libris audimus, ut pro libertate & hæreditate nostra, usque ad mortem certare debeamus. Desire the Apostolical Lord, that forasmuch as he cannot be King and Bishop both together, and that his Ancestors have concern'd themselves with the Ecclesiastical Order, which is their particular Province, and not with the Commonwealth, which is the Office of Kings, not to command us to take such a one for our King, who at so great a distance is not able to help us against the sudden and frequent Assaults of Heathens, and to require us *Franks* to serve him whom we will not serve, because his Ancestors never offer'd to impose this Yoke upon our Ancestors; neither can we bear it, who find it written in the Holy Books, That we ought to fight for our Liberties and our Inheritance even unto death.

Instances
in the Ca-
petin
Race.

We see also that he who was the Head of the Third Race, viz. *Hugh Capet*, was chosen King of *France*, notwithstanding the apparent Rights of *Charles of Lorrain*, who was the next Heir of *Lewis the Fifth*, by reason that the said *Charles* seem'd too much link'd to the Interests of the *Germans*, who at that time were Enemies to *France*. *Guil. de Nangis ad An. 987.* and others in *du Chesne*.

Henry III.
depos'd.

Who does not know the History of *Henry the Third*, who having been depos'd in *Poland* for deserting that Kingdom, was afterward depos'd in *France*, by Advice of the *Sorbonn*, and of the greatest part of the States?

French-
men not in-
fected with
Passive O-
bedience or
Non-Resi-
stance.

We may easily judg from these two Characters, that *Frenchmen* never were infected with the Doctrine of Non-Resistance: The one is, because they look upon this Doctrine as an Error. See what *Gerson* the famous Chancellor of the University of *Paris* saith of it; *Error est dicere terrenum Principem in nullo, suis subditis, dominio durante, obligari; quia secundum jus Divinum & Naturalem æquitatem, & verum Domini finem, quemadmodum subditi debent fidem, subsidium & servitium Domino, sic etiam Dominus subditis suis fidem debet & protectionem. Et si eos manifeste & cum obstinatione in injuria & de facto prosequatur Princeps, tunc Regula hæc Naturalis, vim repellere licet, locum habet. Opus. adversus Adulat. consid. 7.* It is an Error, saith he, to assert, that an earthly Prince, as long as his Dominion lasts, does not stand engag'd to his Subjects in any thing; because, according to the Divine Law, Natural Equity, and the true End of Dominion, as the Subjects owe to their Prince Faithfulness, Subsidy and Service, so their Prince owes to them Faithfulness and Protection; and in case he doth publicly and with obstinacy imperiously oppress them, then that natural Rule takes place, That it is lawful to repel Force by Force.

The second is, That they have always with horror rejected the Abuse that has been made of the Expression in *1 Sam. 8. Hoc est jus Regis*, for to maintain the Tyranny of Princes. "If we will believe the Laws amongst you Princes (saith *Cladius d' Epense* to King *Henry the Second*) you are Lord of our Body and Goods; or to speak more like Christians, we and ours are at your command. Your Majesty ought to abhor that Right nothing less than Royal, and nothing more than Tyrannical, which God by the Mouth of *Samuel* did not allow to Kings, but only threatned the People with telling them, This shall be the Right of the King, &c. And then adds, Go to now ye Dogs and Flatterers of the Court, go to, and alledg henceforward this Right, not Regal but Barbarous, but *Turkish*, but *Scythian*, or if any worse Epithet can be invented.

Affairs
much
chang'd of
late Years
in France.

I acknowledg, that the Face of Affairs is very much chang'd since these hundred Years. The States General have not been assembled almost these seventy Years. The Parliaments themselves, which were establish'd by the Kings and the States General, to preserve the Rights of the States, have been forc'd, by the present King, to verify without any Debate all manner of Edicts for the Imposition of Mony. But yet after all, this Change is of so late standing, that there is little appearance it should be look'd upon as a sufficient Prescription against the Interest of the State. Those *Frenchmen* who have any knowledg of the Laws of the State, and its Constitution, set down the *Epocha* or Date of this Change of the antient Maxims of the Kingdom, at the time which follow'd the Cessation of the holding of the States General, or the Minority of *Lewis the Thirteenth*, and the Reign of *Lewis the Fourteenth*.

Let no Body imagine that the antient Idea of the Government of *France* is quite effaced out of the Spirit of the Nation. I own that *Lewis the Fourteenth*, by a Reign both very long and very violent, has made the *French* lose a great deal of their

their Courage. The Clergy of that Kingdom have, above all, endeavour'd to support his Tyranny, by Maxims advanc'd and contriv'd by them for the ruin of the Protestants, with as little regard for their Country, as they have shew'd Conscience in their base Panegyricks pronounc'd to his Honour. But however there are still in being a great number of honest Men who adhere to those antient Maxims: I can at this present produce one of these from amongst the Clergy, the Learned and Illustrious *M. Joly*, Canon of the Church of *Paris*, who in the Year 1663. publish'd a Book with this Title, *Important Maxims for the Education of a King*. This Man alone may suffice to prove my Assertion, for he very vigorously confirms these Maxims by the Testimony of Kings themselves, Chancellors, Ministers of State, Lawyers, and Historians of *France*, that they were always of Opinion in that Kingdom, That the King holds his Authority from the People; That the Power of Kings is limited; That the *French* Monarchy is a Monarchy allay'd and temper'd with Aristocracy and Democracy; That the Kings can do nothing without the States-General, which are the very same things with our Parliaments; That the Judges are the Peoples Officers; That the words so much abus'd, *Such is our Pleasure*, signify only, This is the Decree of our Courts of Judicature: That they have no Right to levy any Impositions, without the Consent of the States; and many other Articles of that Nature.

The Clergy
in France
Supporters
of Tyranny

C H A P. XVI.

That the Royalty of England never had any other Form than the rest of the Northern and Western States.

I Have insist'd the longer to shew how the Royalty was limited in *France*, because the most part of our Modern Writers seem to have had in their Aims to reduce our Monarchy to the Form of that Kingdom, as supposing that it would have been a most glorious and advantageous thing for our late Kings to transform them into so many *Lewis's XIV.* that is to say, to change us into Slaves, and our Princes into Tyrants.

I shall say nothing of the Royalty in *Scotland*, nor of the Bounds that have been always set it by the Fundamental Laws of the State. There has been lately so much writ concerning this Matter, to justify the Proceedings of the Convention of that Kingdom, that it would be of no use to repeat it here.

And for the same reason I shall excuse my self of the trouble of treating what concerns the Limitation of the Royalty in *England*, so largely as the Subject seems to deserve: however what I shall say will be sufficient to make it appear, that Royalty has been always on the same foot in that Kingdom, as it is still in the other Western Kingdoms.

If we consider the most remote Times that History gives us any account of, we shall find that the *Saxons*, as to the Power of their Kings, follow'd the Example of the Antient *Germans*, whose Authority, if we may believe *Cesar* and *Tacitus*, was altogether limited and restrain'd.

Power of
the Saxon
Kings.

We find in the *Mirror of Justices*, Cap. 1, 2. that the first *Saxons* created their Kings, that they made them take an Oath, and that they put them in mind that they were liable to be judg'd as well as their meanest Subjects.

After that the Right of Succession was receiv'd in *England*, yet it never depriv'd the *English* People of the Right of chusing their Kings. This is evident from the Form of the Coronation publish'd by *Hugh Menard*, at the end of the Book of Sacraments of *St. Gregory*, p. 278. which Form was as follows. After they had made the King promise to preserve the Laws, and the Rights of the Church, we read these words: *Deinde alloquantur duo Episcopi populum in Ecclesia, inquirentes eorum voluntatem; & si concordēs fuerint, agant gratias Deo omnipotenti, decantantes Te Deum laudamus.* "Then let two Bishops speak to the People in the Church, and demand their Will and Pleasure; and in case they do agree, let them give Thanks to Almighty God, singing, *We praise thee, O Lord.* And, p. 269, and 270. "We pray thee most humbly to multiply the Gifts of thy Blessings upon this thy Servant, whom we chuse to be our King, viz. of all *Albion* and of the *Franks*. That the Kings of *England* are as well bound by their Oath, as their Subjects, appears by the Confession of *Henry the Third*, upon occasion of one of his

Right of
Succession;
and Chu-
sing of
Kings pre-
serv'd.

Counsellors of State pretending, that he was not oblig'd to preserve the Liberties of the Nation as being extorted from him, expressing himself in these Terms recorded by *Matth. Paris* under the Year 1223. *Omnes libertates illas juravimus, & omnes adstricti sumus, ut quod juravimus observemus*, pag. 219. All these Liberties we have sworn to, and we are all bound to observe and make good what we have sworn. *Englishmen* were always so well persuaded of this Truth, that in their deposing of *Richard* the Second, they thought they had done enough to prove, That the King had forsworn himself by the Oath he had taken, having broken several of the Articles he had promis'd to his Subjects by Oath to observe, as we may see in the Acts of his Deposal recorded in the Chronicle of *Knigh-ton*.

King's
Power
bounded by
Law.

James the First was convinc'd of this, when he told the Parliament of 1609. the 21st of *March*, "That the King is bound by a double Oath; tacitly, as being King, and so bound to protect his People and the Laws; and expressly, by his Coronation Oath, so as every just King is bound to preserve that Paction made with his People by his Laws, framing the Government thereunto: and a King leaves to be a King, and degenerates into a Tyrant, as soon as he leaves off to govern by Law."

Kings alone
make
no Laws.

For what concerns the Laws, we find that the Kings alone had not the Authority of making them. King *Edwin* publish'd his Laws, *Habito cum Sapientibus & Senioribus Consilio*, with Advice of the wise Men and Elders. *Ina* King of the West Saxons did the like. The Laws of *Alfred* were made after the same manner, *Ex Consilio Prudentissimorum, atque iis omnibus placuit edici eorum omnium Observationes*.

As for the Government of the State, we find that the Parliaments met, and that their Meetings were fix'd once a Year by *Alfred*; which was renew'd by *Edward* the Second by two Laws. Moreover the King was oblig'd to assist at them, in case he was not sick; and nothing but his Sickness could dispense with his Attendance.

Arbitrary
Power never
believ'd in
England.

That *Englishmen* never believ'd that the King of *England* could violate the Laws, and overturn the State at his Pleasure, without making himself thereby liable to Punishment, clearly appears from the Laws of *St. Edward*, and by the manner of holding Parliaments, confirm'd by *William the Conqueror*, and printed by the care of *Dom. Luc. D'achery*, in the 12th Tome of his *Spicilege*.

Prov'd by
K. John's
Reign.

Sure it is that we clearly find these three things:

First, That by the Agreement and Consent of King *John*, upon the Complaints made against him by the whole State, there were chosen five and twenty Barons, with Power to represent to the King his unjust Oppression of the Nation, and to oblige him by force of Arms to redress them, which he himself publish'd by his Letters Patents in the Year 1215; which Piece was publish'd by *Dom. Luc. D'achery* in the old *Norman* Tongue. *Spicil. Tom. XII. p. 583, 584, 585.* as it is to be read in *Matthew Paris, ad An. 1215.*

Non-Resi-
stance not
receiv'd.

Secondly, We find that the Opinion of the *English* Nation of old was, That they could not only resist their Prince who abus'd his Authority, but wholly deprive him of it, by driving him and his wicked Counsellors out of the Kingdom; as we see in *Matth. Paris* in the Year 1233, where he relates that *Henry III.* having call'd a Parliament, upon the Complaints that came in from all Parts against his Ministers, and the Strangers whose Service he made use of in the management of the Affairs of the Kingdom, the Members of the said Parliament perceiving that they could not with safety meet together, refus'd to come up; *Denunciantes Regi per nuncios solennes, quatenus omni dilatione remota ejiceret*; by solemn Messengers requiring the King, that without any delay he should turn out those Strangers.

Thirdly, They judg'd that if the Sword of *St. Edward*, call'd *Curtana*, signify'd that the King reserv'd to himself the Right of exercising Justice against Delinquents; yet he was liable to the same Penalties with private Persons, whenever he transgress'd the Laws of the State, whereof he was the Keeper and Defender; as the same *Matth. Paris* explains it in the Life of *Henry* the Third, much after the same manner, as *Aurelius Victor* reports in the Life of *Trajan*, that that Emperor understood the Ceremony of delivering the Sword to the Prefect of the *Prætorium*.

Positions.

Surely if we consider our History, we shall find,

1. That the Kings alone never had the Power of making Laws.
2. That they had no Power to lay Taxes on the People.
3. That they had not always the Power of making Magistrates.

4. That

4. That they had not the Right of waging War, without the Advice of Parliament, as is observ'd by *Philip de Commines*, Lib. 4. cap. 1.

5. That as they were chosen by the People, they had also Power to depose them. *Nennius* the most antient *English* Historian after *Gildas*, tells us, That *Vortigerne* was depos'd by *St. Germain*, and the Council of the *Britans*, because he had married his own Daughter, who placed his Son *Vortimer* upon the Throne. *Edward II. Richard II.*

6. That the States have cut off the Succession, may be seen by *Henry VII.*

Indeed we find that our antient Lawyers, our Ministers of State, and our Kings, who of all Men ought well to understand the Form and Constitution of our Kingdom, were so far from believing that the Royalty in *England* was an absolute and unlimited Government, that they have expressly declar'd that it is a Government bounded by Fundamental and Essential Laws, and compos'd of a mixture of Monarchy, Aristocracy and Democracy. See how *Bracton* expresseth himself to this purpose, Lib. 2. c. 16. *Fleta* l. 1. c. 17. *In populo regendo Rex habet Superiores, Legem per quam factus est Rex, & Curiam suam, viz. Comites & Barones: Comites dicuntur quasi Socii Regis, & qui habet Socium habet Magistrum; & ideo si Rex fuerit sine freno, id est sine Lege, debent ei frenum ponere.* In ruling the People, the King has above him the Law by which he is made King, and his High Court, viz. the Earls and Barons; Earls are so call'd as being the King's Companions; and he who has a Companion, has a Master; and therefore if the King be without Bridle, that is, without Law, they must bridle him.

Absolute Power not believ'd or receiv'd.

Bracton's Testimony.

Chancellor Fortescue saith, "That the King cannot alter the Laws of his Kingdom, for he governs his People, not only by a Regal but a Political Power. When it is said the Prince's Will has the Force of a Law, this (saith he) is to be understood of a Regal or Absolute Power, from which a Political Power much differs; for such can neither change the Law, nor charge the People with new Impositions against their Wills."

Fortescue's Testimony.

This is a thing so notorious, that *Philip de Commines* has taken notice of it in his *Memoirs*, Lib. 4. cap. 1. and elsewhere; as also *Polydore*, Lib. 11.

Philip de Commines.

Neither have those only, who have expressly treated of the Government of *England*, as *Secretary Smith*, consider'd our Monarchy as a Government mix'd and bounded; but *Charles I.* himself spake of it in these terms: "There being three kinds of Government, Absolute Monarchy, Aristocracy and Democracy, and all having particular Conveniences and Inconveniences; the Experience and Wisdom of our Ancestors hath so moulded this out of a Mixture of those, as to give this Kingdom the Conveniences of all three, without the Inconveniences of any one, as long as the Ballance hangs even between the three Estates, and they run jointly in their proper Channels. The Ill of Absolute Monarchy is Tyranny; of Aristocracy, Faction and Division; of Democracy, Tumults, Violence, and Licentiousness. The Good of Monarchy is uniting a Nation under one Head; the good of Aristocracy, is the conjunction of Counsel in the ablest Persons for the Publick Good; the good of Democracy is Liberty, and the Courage and Industry which Liberty begets. The Lords being trusted with Judicatory Power, are an excellent Skreen and Bank between the Prince and the People, by just Judgment to preserve the Law: wherefore the Power of punishing is already in your hands according to Law."

Secretary Smith. Char. I.

Let any one judg after all this, whether our Ancestors ever entertain'd any of those pernicious Maxims, maintain'd by some of our Modern Divines, Maxims that have been the fruitful Mother of Tyrants: viz. That Princes can dispose of the Goods, Body, and Lives of their Subjects at their Pleasure; that they are not subject to Laws, or to give any Account; that their Succession to the Throne is by Nature and Generation, and not at all by the Authority or Approbation of the States; that neither their Merits or Demerits can be brought into consideration to alter any thing about the Right of their Succession, which is unalterable; that without precipitating our selves into Eternal Condemnation, we may not oppose their Designs, tho directly and openly level'd at the Ruin of the State and the Change of Religion: In a word, that they may commit all manner of Injustice and Violence they please, and that safely and securely, because none but God alone can punish them.

Those pernicious Maxims unknown to our Ancestors.

C H A P. XVII.

An Answer to some Difficulties mov'd against this Truth.

After having set this Matter in so clear and evident a Light, it is not without some Shame and Reluctancy that I make a stop to answer some insignificant Difficulties, which those who defend the unlimited Power of the Kings of England, oppose to the Proofs I have alledg'd. However such as they are, I am willing to consider them, that I may rid the Makers of them from the least pretext of continuing any longer in so gross and dangerous an Error.

Object. 1.
from the
Title of
Imperial.

They alledg in the first place the Title of *Imperial* given to the Crown of England, which, in their Judgments, seems to equalize our Kings with the Roman Emperors, and to attribute an absolute Empire or Dominion to them. Concerning which I have already shew'd, that tho this Title were well grounded, yet the Consequence they draw from thence would be null, whether we consider the antient Roman Empire, or whether we consider the Empire as it is now in Germany.

Answer'd.

I add here for a further clearing of this Matter, that the same thing happen'd to the Kings of the *West*, with regard to the Emperor of the *West*, as befel the other Kings who rose after the Destruction of the Roman Empire, and to the Emperor of Germany, with respect to the Emperors of the *East*. The Emperors of the *East*, as appears from the Embassy of *Luitprand* at *Constantinople*, could not endure that other Princes should take upon them the Title of (*Βασιλεῖς*) Kings, or Emperors, believing that the Name of Kings left them in some dependence upon the Empire of the *East*: this oblig'd the Emperors of the *West* to take upon them the Title of Emperor, to intimate their independency upon the Princes of the *East*. Which Title the Emperors of the *West* having afterwards made use of as a Pretence to raise themselves above the rest of the Princes of Europe, the *Western* Kings did the same which the Emperors of the *West* had done before, to assert their Independency.

Title of
Emperor
given to
other Western
Kings.

For not only the Kings of England, but some other *Western* Kings have taken upon them the Title of Emperors.

In Spain.

Alphonfus VI. King of Spain, took upon him this Title by a Concession from Pope *Urban II.* because he had suppress'd the *Mosorabick* Office: *Alphonfus VII.* and *VIII.* assum'd the same Titles, and *Alphonfus VIII.* was crown'd in that Quality by *Raymond* Archbishop of *Toledo*, in the Church of *Lions*, with the Consent of Pope *Innocent II.* as is reported by *Garibay*, *Lib. 8. Hist. cap. 4.* We find that *Peter de Clugny* writes to this *Alphonfus* as Emperor of Spain, *Epist. 8.* And long time before these Princes, it is certain that the Kings of the *Goths*, since *Richardus*, had taken to themselves the Title of *Flavians*, in imitation of the Roman Emperors; as may be seen in the Councils of *Toledo*. Yet *Philip II.* having demanded this Title in 1564 of Pope *Pius IV.* it was refus'd him.

Among the
Lombards.

The Kings of *Lombardy* had assum'd the Title of *Flavians* even since *Autlaric*, according to the Account given us by *Paul Diacon. lib. 3. cap. 8.* which they did to shew, that they were Emperors in their own Lands and Territories, and that they acknowledg'd no Sovereign or Superior.

And it seems that in process of Time, some *Western* Kings affected that Title for the same reason; and were the rather perswaded so to do, because some Canonists and Lawyers have impudently maintain'd, That the Kings of Spain, France and England, were Subjects of the Emperors of the *West*. *Glossa in cap. Venerabil. de Elect. in verbo transtulit, & in caput Venerabil. qui filii sint legitimi. Bartolus in caput hostes ff. de captivis. Alciat. lib. 2. disjunct. c. 22. Baldus in cap. 1. de Pace, jramento servando in usibus Feudorum.* Tho he contradicts himself, by asserting elsewhere, That the King of France is not subject to the Emperor.

Illusions
remov'd.
Object. 2.

And thus much for the first Illusion some make use of to persuade us that the Kings of England possess the same Rights as the Emperors. A second which seems to have some more Ground is this: They say that as the Emperors that were after *Vespasian*, had the Right to divide the Empire, and to settle it by their Wills on their Heirs, the Kings of England having done the like; it appears thereby, they were in possession of the same Right the Emperors had: to this purpose they alledg

alledg the last Will of *William the Conqueror*, in favour of his Son *William Rufus*.

But nothing can be more vain than this Objection. For,

1st. We cannot deny, but that the Election of Kings took place during the Reign of the Saxons; not that they did it with that Freeness, as to prefer the Uncle before his Nephew, that was under Age tho the King's Son, and the youngest Brother before the Eldest. Answer'd.

2^{ly}. It is true that *William the Conqueror* did act in an extraordinary manner, in disposing of his Kingdom in favour of *William Rufus*, in the same way as one disposeth of a Conquest (and this in prejudice to *Robert* his Eldest Son) as was also done by *William Rufus*. But these two Princes dying without Heirs, *Henry*, who had marry'd the Daughter of King *Alexander* of Scotland who had the Right of the Saxon Kings, and who in consideration of that Marriage renounc'd the Right he might pretend to *England*, as Heir presumptive of the Saxon Kings, having obtain'd the Government by the Right of his Wife, the Laws recover'd their Strength, and things return'd to their antient Channel, as they were in the time of the Saxons. So that it appears that it is Folly for any one to imagine that the Kings of *England* may alienate their Estates, as a private Person can alienate his Inheritance. This was evident in the case of King *John*, who was oppos'd by the whole State, for pretending to subject the Crown of *England* to Pope *Innocent III*. W. the Conq. his disposing of the Succession explain'd.

And indeed if we consider the thing in it self, and according to the unanimous Opinion of all Lawyers, these last Wills can really be of no Force, without the consent of the States to authorize them, as we find that the same did intervene in both the fore-mention'd Cases. The reason whereof is invincible, forasmuch as all States do not consider their Kings as Proprietors of their Kingdoms, but only as publick Ministers, who are intrusted with a Jurisdiction and Administration for the good of the publick. And this is the Title by which even Conquerors themselves are at last oblig'd to hold their Authority.

They tell us in the 3^d place, that the Kings of *England* entitling themselves Kings by the Grace of God; It appears that their Power being come from God, cannot be limited by their Subjects, over whom God has set them. A wonderful way of arguing, and never known till these our times: at least, it is evident, that he who has defended *Nicholas de Lyra* against *Burgensis*, hath made a very different use of these words, *Dei Gratia*, by the Grace of God, wherewith the Kings of the North preface their Titles, from what some now adays make of it. For he maintains that it is the Character of a limited and temper'd Government: See how he expresseth himself upon the 8th ch. of the 1st Book of *Kings*. *Titulus Imperatoris modo regendi vitioso (that is to say, illimitato, as he expresseth himself before) contradicit; nam titulus ejus est, N. Dei gratia Romanorum Rex & semper Augustus, hoc est Reipublice non privatae accommodus. Ita & aliorum Regum Protestationes sunt sub Dei gratia, quae vitiatum Principatum non admittit.* The very Title of the Emperor, saith he, is a Contradiction to an arbitrary and unlimited kind of Government; for his Title is, N. by the Grace of God, King of the Romans, always *Augustus* (that is enlarger of the Empire) which implies that his Government is accommodate to the common Good and not his private Interest. So likewise we find that the Protestations of other Kings are under *Dei Gratia* (the Grace of God) which doth not admit of arbitrary Government. Obj. 3. The Title by the Grace of God urg'd, answer'd and explain'd.

There remain but two difficulties more; the first is this: Several Members of the Church of *England* having perswaded the People, that a necessity was laid upon them to suffer all from the Hands of their Kings, the Kings of *England* have accordingly usurp'd those Rights, and were actually in possession of them, when the same began to oppose themselves to King *James*; this is that they call a right of Prescription. They consider the State, as having lost its Liberty, upon their consenting to the Establishment of Tyranny, and consequently having no right to attempt any thing towards the Recovery of it. More Illusions,

But I desire those who fain would obtrude this Delusion upon others, as they have upon themselves, to consider, Remov'd.

1. That known Maxim of Right, *Possessor malae fidei non praescribit*, An unjust Possessor makes no prescription. Indeed if this be true, That a man needs only usurp the Goods and Rights of another, to make himself the Lawful Master of them; Robbers, Usurers, and those who by abusing of the Law deprive others of their Rights, will be found to be of the best and most thriving Trades in the World. If this be so, the Church of *Rome* and the Pope, by the Possession they have been in for No Right of Prescription entitles one to unjust possession.

so many Ages, must carry it by Prescription, to hang, burn, and massacre; neither can any one oppose himself against their just Title.

2. They ought to consider that if Kings be accounted Minors or under Age, because they cannot alienate their Dominions, as being only granted them for the good of the State; the People are so, on a much better Title, and Prescription can never prejudice them.

I know it is a Maxim in Law, *Prætor cum injustè judicat, jus dicit*; that a Judge, tho he judges unjustly, his Judgment stands good in Law, and accordingly must be obey'd: from whence some might conclude, That the most unjust Kings cannot be contradicted, and that it is unlawful for any to oppose themselves to their Decisions. But those who should make this Objection, probably would not take notice of the Consequence of it. It is for the Interest of the Society, that the Judgments pronounc'd by the ordinary Judges should be valid, tho some of their Judgments may be unjust: but no body ever believ'd, that this Maxim authoriz'd the Magistrate, either Subaltern or Sovereign, to tread under-feet the Laws, and to make publick Profession to judge all things according to their Fancy. 2. 'Tis a constant Truth, that Kings could never justly touch the Peoples Rights, they being commissioned neither by God nor Man to judge what be the Rights of the People, and having no more right to deprive them thereof, than a Party at Law has right to deprive his Party of the Right that justly belongs to him.

CHAP. XVIII.

An Answer to the last Objection.

After all that hath been said, I cannot suspect that any should make an Objection which has so little appearance of Probability, as is that which is the second of those that remain to be examin'd by me. Some suppose their Conceit to be of weight, who urge the Acts of Parliament under King *Charles* the Second, as destructive of this Form of the *English* Government. The words are these; *That it is not lawful on any Pretence whatsoever to take up Arms against the King, &c.* Indeed it cannot be deny'd but that these Words seem to suppose, that those who swear to them, cannot believe it is lawful to take up Arms against the Kings of *England*, howsoever they may behave themselves, nor by any opposition to hinder the overturning of the Laws and Government. We may well acknowledg that Power to be unbounded, which it is not lawful to oppose by force of Arms; now these Acts of Parliament declare that it is not lawful to resist the King; wherefore the King of *England* must be suppos'd an unlimited and absolute Monarch, and by consequence we must conclude, that the Government of *England* is wholly chang'd and destroy'd: so that whatsoever we have alledg'd in the foregoing Discourse, can only be made use of as a History of what is past, but not as a Rule or Precedent for what is to come.

Not taking
Arms on
any Pre-
tence
whatsoever
explain'd.

This Conceit is so unreasonable, that it seems scarce worth the pains to stop at it; however I shall endeavour in a few words to satisfy those who seem unwarily to be taken in the Snare, which the Malice of a Popish Court had laid for them.

1st. They must know that the Fundamental Laws of any State, are of the nature of Contracts, Pactions and Capitulations, which according to the common Opinion of Lawyers are irrevocable; *Buxtorf. in Bull. aurea cap. 1. § 7.* Whence it follows, That all Oaths that are taken against Capitulations of this nature, may be Sins to those who take them, but cannot oblige them, as being unlawful Oaths.

The Inten-
tion of the
Parlia-
ment in
making
that Act.

2^{ly}. They cannot suppose that the Parliaments of *Charles II.* did ever think of repealing these Fundamental Laws, without accusing the Members that compos'd them of having been Prevaricators and Betrayers of the Interest of their Country, by changing the limited Monarchy into a true Tyranny.

3^{ly}. They cannot do this Injury to these illustrious Assemblies, without casting the same Blemish upon the Bishops in the House of Lords, during those Sessions of Parliament, and making them altogether odious either for their Stupidity, or for their Malice: for their Stupidity, if imprudently they gave their consent to Laws made on purpose to change the Kingly Government into Tyranny; or for their Malice, if they wilfully betray'd the Interest of the State, tho they knew well enough what must be the End and Aim of these Regulations. I desire these Gentlemen to make

make some Reflection on this Truth. Is it possible they should have no Consideration at all, either for the Reputation or Conscience of their Ancestors? They have shew'd themselves so jealous of a Change in the form of the Government, by making of a successive State an Elective one, and yet they suppose that the Parliament and the Bishops that sat in them have in sport chang'd the form of the Government, by making it of a limited Royalty to become an absolute and unbounded Monarchy.

4ly. They must needs accuse these Parliaments of a strange Folly; for these Gentlemen suppose that the Disorders which then rul'd in the State, oblig'd the Parliament to restore *Charles II.* They suppose that the Anarchy and various Sects which had the upper hand before his recall, making wise men not without cause to apprehend the Ruin of the Protestant Religion as well as the Overthrow of the State, they thought themselves oblig'd to employ all their strength for restoring of *Charles II.* as supposing him a good Protestant, and a King whom his Adversities had made wise, in hopes of being govern'd by him according to the antient Laws of the Kingdom. And yet after this they will persuade us, That the Parliament thought it fit and reasonable to destroy the Nature of the Royalty in *England*, by making it Mistress of the Laws, and authorizing it to destroy the Protestant Religion, whenever the Popish Faction should think fit to have it done.

5ly. They must accuse these Parliaments of the commission of a horrid piece of Imprudence, in attempting upon the Liberty of the People: For if this was indeed their Design, were they not oblig'd at the same time to repeal all the other Laws which restrain the Power of the Kings of *England*? For we know that a Law cannot be valid nor derogate from other Laws, except in the said Law express mention be made of the said Derogation, with a Notwithstanding to the Reglements set down in other Laws that are in Authority on that Subject. *De Decimis c. nuper.* Ought not they also in like manner to have declar'd, and that very precisely too, that they dispens'd *Charles II.* from keeping his Coronation Oath; and to have set down in very distinct Terms, that in case the King should think fit to call in an Army of *French* Dragoons to ravish their Wives and Daughters, and to force all his Subjects to change their Religion, they do not think it lawful to take up Arms against him or them, to repel their Violence?

6ly. They are to take notice that *Charles II.* did never conceive that those Acts had chang'd the Government of the State. Do we not know that he offer'd to the Parliaments of *Westminster* and *Oxford*, to impose such Conditions on the D. of *York*, as the Parliament should judge necessary, provided only the Succession might be assur'd to him? Now could any thing be more ridiculous and extravagant than this Proposition of the King, had he believ'd that the Acts already past in his Favour, had given him and his Successors a Right to overturn all, without being able to be challeng'd or oppos'd by any one for so doing? They themselves did suppose the same thing, and went upon that Ground; What else could be their meaning in crowning *James II.* if they suppos'd that he was in full and rightful Possession of the Government by virtue of the Succession, without being oblig'd to take the Oaths, by which the Kings of *England* oblige themselves to keep the Laws of the State?

7ly. They ought to take notice, that they themselves suppos'd that the Fundamental Laws of the State were not abolish'd. I don't speak here of those loud Murmurs that were heard every where, when *James II.* by an Act of his Council, of his own Authority, rais'd the same Sums which had been granted to *Charles II.* which he could not do without the Authority of Parliament; nor of the Complaints that were generally made when he turn'd out my Lord *Clarendon* from being Lord Deputy of *Ireland*, banish'd several Protestant Lords out of his Council, and put Papists into all Offices whether Civil or Military. I only take notice here of the Petition presented in the Name of the Clergy by the seven Bishops, upon occasion of reading the Declaration for Liberty of Conscience; for had they been of another Opinion, with what pretence of Reason could they have complain'd of *James II.* governing with an Arbitrary Power, and his dispensing with the Laws? Why in their Petition did they alledg those Acts of Parliament which had condemn'd that Power in 1673, when *Charles II.* publish'd his Proclamation for Liberty of Conscience? These Acts of theirs, upon this Supposal, could not be accounted of otherwise than as Acts of Rebellion; nor could they be made use of with a good Conscience, after they had been convinc'd that the Fundamental Laws being repeal'd and abolish'd, they were now subject to an arbitrary and unbounded Government.

Indeed

Indeed we cannot enough commend the Constancy of the Clergy, and those worthy Prelates who refus'd to read the Declaration of *James the Second* for Liberty of Conscience; that Declaration being grounded upon the Power he attributed to himself of dispensing with the Laws. But on the other hand, neither can we imagine any more convincing Proof to make out that at that Time they did not conceive, any more than the whole State who so generally applauded them, that they themselves, as well as the whole State, had cast themselves headlong into Slavery by their Oaths, because the Power of the Kings of *England* was become unbounded and arbitrary.

That Act
not to be
taken in an
absolute
sense, and
why.

In a word, how ample an Extent soever these Gentlemen may give to the Oath they have taken, in pursuance of an Act of Parliament in the 13th Year of *Charles the Second*, they must remember one thing that is always suppos'd, which is the natural Condition of all Oaths, *rebus sic stantibus, c. ad naturam*, Things continuing in the same State; for indeed as soon as things have chang'd their Nature, or that Circumstances are alter'd, there remains no more Obligation in Cases where Exceptions are naturally suppos'd. I am bound to obey my Father in all things, this being what the Scripture expressly teacheth me; but I am not bound to obey him any farther than he acts like a Father, neither am I oblig'd to keep his Command of obeying him in all things, but only so far as the things enjoyn'd by him are just and lawful. I am bound to obey the King according to the Laws, neither may I lawfully resist Him in his executing of the Laws, or upon any Pretext whatsoever take up Arms against him: But if instead of governing according to Law, he useth his utmost Endeavours to overthrow the Society, by destroying the Laws which are the Band of it, then all the Oaths I have taken are no longer of any Force, 'tis my Right to endeavour to preserve the Society which he goes about to overthrow, and to oppose his Violence by taking up Arms against him, and to put a stop to the unjust Proceedings of a Prince who declares himself an Enemy to the State, by the ways which Providence affords me for my Security.

But if after all these Considerations these Gentlemen still maintain, that they have taken these Oaths in so strait a sense, that nothing is capable of satisfying their Consciences; we have great reason to be astonish'd, how it was possible that Men of so tender and delicate a Conscience could take such Oaths, which taken in their sense, do visibly overturn both the State and Religion. Indeed there is no need of any ones being a Prophet to make him conceive, that they were either oblig'd in Conscience to refuse the taking of such Oaths, and to fly to the end of the World rather than take them, than they are bound to keep them, with the hazard of the utter ruin of their native Country and their Religion; or see them perish without having any Power to defend them, as they are oblig'd by the Laws of Nature, and by all the Duties of the Society and Religion.

It has already been made out by several Writings, that God seeming to spare and wink at the weakness of those who believ'd themselves thus fast bound and tied by their Oaths, and destin'd to become Victims to Popery and Tyranny, has been pleas'd happily to deliver them from the trouble wherein they had involv'd themselves, in sending them a Deliverer, whose Rights, in a War which *James the Second* unjustly wageth against him, are above all those Difficulties, which seem to be matter of Scruple to them; so that it is not needful for me to insist any longer on this Matter.

C H A P. XIX.

A Reflection on some Remarks made out in this Treatise.

I Am persuaded, that every equal Reader cannot but acknowledg, that to judge aright of things, the Proceedings of *England*, with respect to *James the Second*, have been the most just and lawful that could be.

The things I have made out in this Treatise, are summarily contain'd in the following Articles.

Propositions
made
out in this
Treatise.

1. That the Constitution and Establishment of any Government, is the Effect of the Original Consent of the People, tho the Authority of the Magistrates be a thing establish'd by God.

2. That

2. That this Establishment supposeth the Subsistence of the Laws; which are the End of Government in the Design of God; for indeed Kingdoms without Justice are no better than great Robberies, as St. *Austin* calls them, *De Civit. Dei*, Lib. 4. cap. 4.

3. That these Fundamental Laws, for the Subsistence of the Society, are a Bond which so strictly ties the Sovereigns, that nothing is able to dispense with their Obligation to them.

4. That when the Sovereigns do violate them, they break the Ties whereby their Subjects are bound to their lawful Authority.

5. That the Subjects can never be depriv'd of their Right to hinder the Ruin of the Society, and of the Laws, for the conservation of which only they have put their Rights into the Hands of the Prince.

6. That there was never any State that subsisted under other Conditions than these.

7. That *England* in particular, and *Scotland*, have always had this Right.

Now these things suppos'd, it is evident,

1. That *James* the Second had forfeited all his Rights to the Crown, even before his Desertion. *Inferences.*

2. That the Lords and People justly took up Arms against him, to oblige him by Force to reform the Disorders he had caus'd.

3. That the States had Power, without any regard had to him, to raise the King and Queen to the Throne.

4. That the Subjects are more than enough freed from their Oath of Allegiance to King *James*.

5. That they have Right, and are under Obligation to take up Arms, and oppose themselves against *James* the Second, and to maintain the Authority of the King and Queen.

6. That those who oppose themselves to this, are declar'd Enemies of the State, and of our Religion, and the Authors and Abettors of Tyranny and Popery.

7. That those who pretend themselves scrupulous in these Points are the Cause of the Division, and consequently of the Ruin of the State and Religion; whereby they grievously sin against God, and therefore are oblig'd in Conscience to repent and make amends for the Mischief their Division has caus'd.

The thing is very evident, and forasmuch as it is of the highest Importance for their Salvation, I beg of them well to weigh and consider these following Articles, and witness their Repentance in all these respects.

1. Then they ought to repent, for that they making profession to have so strong an Affection for *James* the Second, they have made him fall upon the Designs of changing the Government into a Despotical and Arbitrary Power; and thus by their Maxims have advanc'd and precipitated his Ruin. They are the Men who have made him conceive the Design of establishing a Tyranny in *England*; they have given birth to his hope of being able to compass it according to his Hearts desire; and his Ruin proceeding from the opposition that was made against these his Designs, 'tis them he may thank for all the Misfortunes into which he is plung'd; and consequently they have great reason to repent, for having precipitated his Ruin by their false and deceitful Foundation. See what *Gerson* saith, *In opusc. contr. Adulat. confid.* 10. *Clericus ille Regem suum aut Principem amaret minimè, qui perversas & tales vellet dare doctrinas, aut toto posse & scientia illas non impediret — quia non est modus certior, quo Rex aut Princeps se perderet in corpore & in anima, totamq; ejus damnationem, quam habendo falsas tales opiniones, & eas opere exequendo. Cur? Quoniam Dominatio sua in Tyrannidem verteretur & in Infidelitatem.* That Clergyman would be far from loving his King or Prince, who should teach him such perverse and false Doctrines; or that with all his Power and Skill should not oppose them, because there is not a more sure way for a Prince to destroy himself, Soul and Body, and to procure his total Damnation, than by entertaining such false Opinions, and reducing them into practice. Why so? Because his Government by this means would be chang'd into Tyranny and Perfidiousness.

Passive-Obedience-men ought to repent of the Mischiefs they brought upon the Nation.

2. They ought to repent for their having contributed so much towards the establishing of Tyranny, not only because that would have destroy'd the Publick Liberty, but because his Design at the same time was, to overthrow the Protestant Religion, and substitute in the place of it the Idolatry, Superstition and Tyranny of

Popish Usurpation. This was a thing they could not do without imitating the Conduct of the Popish Clergy, who since the Popes have undertaken to tread under their Feet the Rules of the Gospel, and of the Church, have endeavour'd to inspire Princes with an indifferency for their Oaths, and contempt of the Laws, which are a Safeguard and Security of the Civil Society.

3. They must repent, at least some of them, for having obstinately endeavour'd to hide and disguise the Conspiracies which were design'd for the Ruin of our Religion and Liberty.

4. They must repent for having writ in favour of an Opinion contrary to the Judgment of the antient Reformers of *England*; and for having traduc'd as Rebels, the Protestant Churches beyond the Sea, for their maintaining the Maxims which the first Reformers of *England* have asserted, and for which they have writ in defence of their Protestant Brethren.

5. They must repent, for that by their Sermons and Writings they have insinuated to the People those Maxims which have put them upon betraying the natural Rights of the Society; and in the Sequel, upon imprudently exposing themselves to betray the Interest of the Protestant Religion, which they were oblig'd to deliver safe to their Posterity.

6. They must repent, for having by this means encourag'd the Judges to tread underfoot the Authority of the Laws, and to dispense with them, as having taught them to look upon the Laws as the Concessions of Princes, and Acts of their Will, and by consequence revocable at their good Pleasure.

7. They must repent, at least some of them, for having mounted to Ecclesiastical Dignities, by publickly appearing in the Lists for defence of these pernicious and tyrannical Maxims, directly level'd at the ruin and overthrow of our Liberty and Religion.

8. They must repent, for that their Opinions at this day are the Causes of the present Conspiracies, Rebellions and Treasons against the Government, by which God has been pleas'd so graciously to secure our Liberty and Religion from the inevitable Ruin wherewith they were threatned.

However, we have cause to bless God, that those who are guilty of these Sins, are but inconsiderable in their Numbers. And I ardently wish for them they may once seriously enter into themselves, and that by the Example of their Brethren they may, for time to come, employ all their Endeavours to make reparation for the Mischief and Scandal their Errors and Prejudices have in a great measure brought both upon the Church and State.

THE

The APPENDIX,

CONTAINING

- I. Concilii Toletani IV. Canon. LXXV.
- II. Capitula super quibus facta est Magna Charta Regis Johannis, ex MSS. Arch. Cant. Fol. 14. Quæ etiam authenticè cum Sigillo extant in manibus Episc. Salisburiensis.
- III. Diploma five Ordinationes Johannis Regis Angliæ, queis statuit quid Nobiles, quid Plebes observare debeant ad pacem & tranquillitatem Regni stabiliendam.

The 75th Canon of the Fourth Council of Toledo.

Concilii Toletani IV. CAN. LXXV.

After some Ordinances and Decrees made by us, with respect to the Ecclesiastical Order, and their particular Discipline, the last Resolution taken by us Priests, is to enact a final Pontifical Decree for the puissance of our Kings, and the stability of the Gothick Nation, in presence of the Great Judg of the World. For many Nations are so false and perfidious, that they make slight of the Oath of Faithfulness they have sworn to their Kings; and tho with their Mouths they profess Allegiance to their Prince, yet retain Perfidiousness in their Hearts: they swear indeed to their Kings, but are as ready to break it again upon occasion, not fearing that Roll of Judgment, which brings a Curse and manifold Punishments upon those who swear falsely by the Name of the Lord. What hope is there that such as these should either stand to their Capitulations in time of War, or observe their Treaties of Peace with other Nations? Or what Covenant or Contract will they not break? Or what Promise made to their Enemies will they keep, when they violate the Allegiance sworn to their own Kings? For who is so mad as to endeavour to cut off his Head with his own Hand? This is notorious, that unmindful of their own Preservation they kill themselves, turning their Force and Violence against themselves and their own Kings. And whereas the Lord saith, Touch not mine Anointed: And David, Who can stretch forth his hand against the Lord's Anointed and be guiltless? These are neither afraid of Perjury, or murdering their own

Post instituta quædam ecclesiastici ordinis, vel decreta, quæ ad quorundam pertinent disciplinam, postrema nobis cunctis sacerdotibus sententia est, pro robore nostrorum Regum, & stabilitate gentis Gothorum, pontificale ultimum sub Deo judice ferre decretum. Multarum quippe gentium (ut fama est) tanta extat perfidia animorum, ut fidem Sacramento promissam regibus suis servare contemnant, & ore simulent jurenti professionem, dum retineant mente perfidiæ impietatem. Jurant enim Regibus suis, & fidem quam pollicentur prævaricant, nec metuunt volumen illud judicii, per quod inducitur maledictio multaque pœnarum comminatio super eos qui jurant in nomine Dei mendaciter. Quæ igitur spes talibus populis contra hostes laborantibus erit? quæ fides ultra cum aliis gentibus in pace credenda? quod foedus non violandum? quæ in hostibus jurata sponsio * permanebit, quando nec ipsis propriis regibus juratam fidem conservant? Quis enim adeo furiosus est, qui caput suum manu propriâ defecet? illud notum est, immemores salutis suæ propriâ manu seipsos interimunt, in semetipsos suosque reges proprias convertendo vires. Et dum Dominus † dicit, Nolite tangere Christos meos: & David, Quis, inquit, extendet manum suam in Christum Domini, & innocens erit? illic nec vitare metus est perjurium, nec regibus suis inferre exitium. Hostibus quippe fides pacti datur, nec violatur.

Concilio Tolet. v. cap. 7. decernitur ut hoc decretum in omnibus synodis peractis publicâ voce pronuncietur.

Zach. 7. cf. 2.

* stabiles perm.

† Dicat, Psal. 104. 1 Regum 26.

|| ceteris.

Ifai. 34.

* atque timore, & usque ad mortem custod.

† molitur.

* Observa-
tione.
† Tenta-
verit.

Quod si in bello fides valet, quanto magis in || suis servanda est? Sacrilegium quippe est, si violetur à gentibus regum suorum promissa fides, quia non solum in eos sit pacti transgressio, sed & in Deum quidem, in cuius nomine pollicetur ipsa promissio. Inde est quod multa regna terrarum cœlestis iracundia ita permutavit, ut per impietatem fidei & morum, alterum altero solveretur. Unde & nos cavere oportet casum huiusmodi gentium; ne similiter plagâ feriamur præcipiti, & pœna puniamur crudeli. Sic enim Deus angelis in se prævaricantibus non pepercit, qui per inobedientiam cœleste habitaculum perdiderunt. Unde & per Isaïam dicitur, Inebriatus est gladius meus in cœlo, quanto magis nos nostræ salutis interitum timere debemus, ne per infidelitatem eodem sævientis Dei gladio pereamus? Quod si divinam iracundiam vitare volumus, & severitatem ejus ad clementiam provocare cupimus, servemus erga Deum religionis cultum * cum timore; custodiamus erga Principes nostros pollicitam fidem, atque spon- sionem; non sit in nobis, sicut in quibusdam gentibus, infidelitatis subtilitas impia, non subdola mentis perfidia, non perjurii nefas, nec conjurationum nefanda molimina. Nullus apud nos præsumptione regnum accipiat; nullus excitet mutuas seditiones civium; nemo meditetur interitus regum; sed & defuncto in pace principe, primates totius gentis cum sacerdotibus successorem regni concilio communi constituent: ut dum unitatis concordia à nobis retinetur, nullum patriæ gentis dissidium per vim atque ambitum † oriat. Quod si hæc admonitio mentes nostras non corrigit, & ad salutem communem cor nostrum nequaquam perducit, audite sententiam nostram. Quicumque igitur à nobis, vel totius Hispaniæ populis, quâlibet conjuratione vel studio sacramentum fidei suæ, quod pro patriæ gentisque Gothorum Statu, vel * conservatione regiæ salutis pollicitus est, † temeraverit, ut regem nec attre- ctaverit, aut potestate regni exuerit, aut præsumptione Tyrannicâ regni fastigium usurpaverit, anathema sit in conspectu Dei patris & angelorum, atque ab ecclesia catholica, quam profanaverit perjurio, efficiatur extraneus, & ab omni cœtu Christianorum alienus, cum omnibus impietatis suæ sociis: quia oportet ut una pœna teneat obnoxios, quos similis error invenerit implicatos. Quod iterum secundo replicamus dicentes: Quicumque amodo ex nobis vel cunctis Hispaniæ populis quolibet tractatu vel studio sacramentum fidei suæ, quod pro patriæ gen- tisque

own Princes. Sure it is that a Promise, the made to Enemies, ought to be kept: Now if we must keep Faith and Truth in War to our Enemies, how much more are we to keep them on all other occasions? For it is a piece of Sacrilege for Subjects to violate the Faith promis'd to their Kings, because in so doing they not only sin against their Princes, but against God himself, in whose Name they make their Promise. Hence it comes that the Wrath of God doth oft change and transfer many of the earthly Kingdoms, the breach of Faith and Corruption of Manners making way for the destruction and change of the Government. Wherefore also it ought to be our great care to avoid the Mishaps attending these Nations, lest we be involved with them deservedly in the same Punishment. Thus we see that God did not spare the Angels that rebell'd against him, who by their disobedience forfeited their Heavenly Mansions. Wherefore 'tis said also by the Prophet Isaïah, My Sword is made drunk in Heaven; how much more then ought we to stand in awe, and fear the same disaster, lest by our perfidiousness we be destroy'd by the same Sword of an angry God? If therefore we desire to avoid the Divine Wrath, and to have his Severity turn'd into Favour and Clemency towards us, let us above all things with fear keep and observe to God the Religious Worship and Service we owe him, and to our Kings the Faith and Allegiance we have promis'd them. Let there not be found amongst us, as in some other Nations, any wicked Contrivance of Unfaithfulness, or cunning Perfidiousness, or the horrid Crime of Perjury, or mischievous Plottings of Conspiracies: Let none amongst us, egg'd on by Presumption, invade the Throne, or stir up Seditions amongst his Fellow-Citizens, or compass and contrive the Death of Kings: But when the King is departed this Life in Peace, let the Lords of the Nation, together with the Priests, by joint Advice and Consent, appoint and constitute a Successor of the Kingdom; that so whilst this Band of Unity and Concord is thus preserv'd amongst us, none may endeavour to make a Rent in the Kingdom by force or unjust ways. But in case this Admonition prove not of sufficient force to correct the bad impressions which may be on the minds of any, and to incline the hearts of all to promote the common Good, we think good to pronounce Sentence. Whosoever therefore, either of us, or any of the People of Spain, shall by any Conspiracy or Endeavour come to break and falsifie the Oath he has taken, for the good State and Welfare of the Gothick Nation, and the Safety of the King, or shall presume to kill the King, or deprive him of his Royal Dignity, or by

a Tyrannical presumption shall usurp the Throne, let him be Anathema in the Eyes of God the Father, and the Holy Angels, and be cast out of the Catholick Church which he has profan'd by his Perjury, and be turn'd out from all Christian Societies, together with all the Complices of his Wickedness, because it is but just that they who are guilty of the same Crime should be involv'd in the same Punishment. Which therefore we think good to repeat again; saying, Whosoever from this time forwards, either of us, or of all the People of Spain, shall by any Conspiracy or Endeavour, break the Oath which he has taken for the good State of his Native Country, and of the Gothick Nation, and for the safety of the King's Person, or shall presume to kill the King, or deprive him of his Kingdom, or by a Tyrannical Presumption shall usurp the Throne, let him be Anathema in the sight of Christ and his Holy Apostles, and be cast out of the Catholick Church which he has profan'd by his perjury, and thrust out from all Christian Societies, and as a damn'd Person be deliver'd up to the just Judgment of God to come, together with all his Complices and Partakers. Yea we repeat a third time, that whosoever of us, or any of the People of Spain, in contrivance or deed, break his Oath which he hath taken for the good State and Welfare of his own Native Country, and the Gothick Nation, and the safety and preservation of the King's Person, or attempt the life of the King, or deprive him of his Royal Dignity, or by a Tyrannical presumption shall usurp the Throne, let him be Anathema in the sight of the Holy Ghost and the Martyrs of Christ, and be excommunicated from the Catholick Church which he has profan'd by his Perjury, and be renounc'd all Christian Communion, without ever having any share or part with the Righteous, but with the Devil and his Angels be condemn'd to Eternal Punishments, with all his Partners join'd with him in the same Conspiracy, that the same Punishment of final Perdition may reach all that are Complices and Partakers of the same Guilt. Wherefore if this thrice repeated Sentence be according to the mind of all you that are here present, confirm the same with your Unanimous Voices. Accordingly the whole Body of the Clergy and People have said and declar'd, Whosoever shall presume to do any thing against this your Decree, Let him be Anathema, Maranatha, that is, accurst and damn'd at the coming of our Lord, and have his share and lot with Judas Iscariot, both they and their Complices. Amen.

In Consideration therefore of the Premises, we Priests do admonish and warn the Holy Church of Christ, and all the People, to take care that this tremendous and so oft repeated Sentence of Excommunication may not make any of us obnoxious to present and eternal condemnation; but that keeping the Faith we have sworn to our most Glorious Lord King Sisenandus, and serving him with sincere Loyalty, we may not only incline the Divine Clemency and Goodness towards us, but may also deserve the Favour of our Gracious Prince. Amen.

tisque Gothorum statu, vel conservatione regiae salutis pollicitus est, violaverit, aut regem nece attrectaverit, aut potestate regni exuerit, aut praesumptione tyrannica regni fastigium usurpaverit, anathema sit in conspectu Christi, † A- † Angelorum ejus, atque ab Ecclesia Catholica quam perjurio profanaverit, efficiatur extraneus; & ab omni consortio Christianorum alienus, & damnatus in futuro Dei judicio habeatur, cum participibus suis. Quia dignum est, qui talibus sociantur, ipsi etiam damnationis eorum participatione obnoxii teneantur. Hoc etiam tertio acclamamus, Quicumque amodo ex nobis vel cunctis Hispaniae populis qualibet meditatione vel studio sacramentum fidei suae, quod pro patriae salute, Gentisque Gothorum statu, vel incolumitate regiae potestatis pollicitus est, violaverit, aut regem nece attrectaverit, aut potestate regni exuerit, aut praesumptione tyrannica regni fastigium usurpaverit, anathema sit in conspectu Spiritus Sancti, & martyrum Christi, atque ab ecclesia catholica quam perjurio profanaverit, efficiatur extraneus, & ab omni communione Christianorum alienus; neque partem justorum habeat, sed cum diabolo & angelis ejus aeternis suppliciis condemnatur, una cum eis qui eadem conjuratione nituntur: * ut par poena perditionis constingat, quos in perniciem prava societas copulat: & ideo, si placet omnibus qui adestis, † Hæc tertio reiterata sententia vestrae vocis || eam consensu firmate, ab universo clero, vel populo dictum est: qui contra hanc vestram definitionem praesumpserit, anathema, maranatha (hoc est) perditio in † adventum domini sit, & cum Juda Iscariot partem habeat, & ipsi & socii eorum. Amen.

Quapropter nos ipsi † sacerdotes omnem Ecclesiam Christi ac populum admonemus, ut tremenda hæc & toties reiterata sententia nullum ex nobis praesenti atque aeterno condemnet judicio; sed fidem promissam erga gloriosissimum dominum nostrum Sisenandum regem custodientes, ac sincera illi devotione famulantes, non solum divinae Pietatis clementiam in nobis provocemus, sed etiam gratiam antefati Principis percipere mereamur. Amen.

† Angelorum.

* Et.

† Hoc tertio reiteratum sententia vestrae. || Nostram.

† Adventus.

† Et sacerdotes omnes sanctam Ecclesiam.

*Hæc omnia
de forman-
do optimo
Principe,
fere de-
sumpta
sunt ex
August.
lib. 5. de
civit. Dei,
cap. 24.*

**Deducere.*

*|| Proveha-
mus.*

*† Auxe-
rant.*

** Geila-
nem.*

*† Suintila-
ne.*

** Fide.*

*† Ante-
factum est.*

** Præter
in id.*

*† Congruè
non sepa-
rat.*

Te quoque præsentem regem futuro-
que sequentium ætatum principes humi-
litate quâ debemus deposcimus, ut mode-
rati & mites erga subjectos existentes,
cum iustitia & pietate populos à Deo
vobis creditos regatis, bonamque vicissi-
tudinem qui vos constituit largitori Chris-
to respondeatis; regnantes cum hu-
militate cordis, cum studio bonæ actionis.
Ne quisquam vestrum solus in causis
capitum, aut rerum sententiam ferat:
Sed consensu publico, cum rectoribus ex
iudicio manifesto delinquentium culpa pa-
tescat; servata vobis in offensis mansue-
tutine, ut non severitate magis in illis
quam indulgentia polleatis: Ut dum om-
nia hæc, auctore Deo, pio à vobis mode-
ramine conservantur, & reges in populis,
& populi in regibus, & Deus in utrisque
lætetur. Sane de futuris regibus hanc
sententiam promulgamus, ut si quis ex eis
contra reverentiam legum surperba do-
minatione, & fastu regio in flagitiis &
facinore, sive cupiditate crudelissimam
potestatem in populis exercuerit, anathe-
matis sententia a Christo domino condem-
netur, & habeat a Deo separationem at-
que iudicium, propter quod præsumpserit
prava agere, & in perniciem regnum
* convertere. De se Suintilano vero, qui
scelera propria metuens, seipsum regno
privavit, & potestatis fascibus exuit, id
cum gentis consultu decrevimus, ut neque
eundem vel uxorem ejus, propter mala
quæ commiserunt, neque filios eorum u-
nitati nostræ unquam consociemus, nec
eos ad honores, a quibus ob iniquitatem
dejecti sunt, aliquando || promoveamus;
quique etiam, sicut a fastigio regni ha-
bentur extranei, ita & a possessione re-
rum, quas de miserorum sumptibus
† hauserant, maneat alieni; præter id
quod pietate piissimi principis nostri fue-
rint consecuti. Non aliter & * Gelanem
memorati † Suintilani & sanguine & sce-
lere fratrem, qui neque in germanitatis
* fœdere stabilis extitit, nec fidem glo-
riofissimo nostro domino pollicito conser-
vavit, hunc igitur cum conjuge sua, sicut
& † antefatos, a societate gentis, atque
consortio nostro placuit separari, nec in
amissis facultatibus, in quibus per iniqui-
tatem creverant, reduces fieri; * præ-
ter id quod consecuti fuerint pietate cle-
mentissimi principis nostri: cujus gratia
& bonos donorum præmiis ditat, & malos
a beneficentia sua † non separat. Glo-
ria autem & honor omnipotenti Deo nos-
tro, in cujus nomine congregati sumus.
Post hæc salus & pax, & diuturnitas piissi-
mo & amatori Christo domino Sisenando
regi; cujus devotio nos ad hoc decretum
salutiferum convocavit; corroboret Chris-
ti

We also with the Humility that becomes us
do entreat thee, O King, here
present amongst us, and all
Princes thy Successors for time
to come, that behaving your
selves with all moderation and
gentleness towards your Sub-
jects, you may in Righteous-
ness and Godliness rule the
People by God committed to
your Charge, that so you may be able to give
a good account of your Stewardship to Christ
who has constituted you; governing your
Subjects with humbleness of Heart, and being
found in a constant Endeavour of procuring
their Good and Welfare. That none of you
alone may undertake to judg of capital Mat-
ters, or any Man's Estate; but that by publick
consent of the Judges and other Magistrates,
and in an open Tryal, the Guilt of Delin-
quents may be made apparent, observing a
merciful disposition towards those who have
offended, that your Indulgence and Mercy in
sparing may appear, as well as your Severity
in punishing: So that all things, by the assis-
tance of God, being administred and preserv-
ed by you, with a godly Rule and Govern-
ment, you Kings may have reason to rejoice
in your People, as well as your People in you,
and that God may rejoice in you both. And
as to what belongs to all future Kings, we pro-
nounce this our Sentence, That in case any of
them without being restrain'd by the Reverence
due to the Laws, shall by a proud Lordliness,
being puffed up with the Royal dignity, by Injus-
tice, Violence and Oppression, exercise a
Tyrannical and cruel Power against his Sub-
jects, let all such be condemn'd and anathe-
matiz'd by Christ, and be separated from
God, and subjected to his Judgments; for
that he presum'd to act wickedly, and to en-
deavour the hurt and ruin of the Kingdom.
And as for Suintilanus, who fearing the
Punishment of his Crimes, has deserted the
Kingdom, depriving himself thereby of the
Royal Power, we, with the Consent of the
People, have decreed that neither he nor his
Wife nor Children, shall ever be receiv'd by
us into our Society, because of the Wickedness
they are guilty of; or restor'd to those Ho-
nours from whence they have been so justly
cast down; and that they shall not only for
ever stand depriv'd of the Prerogatives of the
Royal Dignity, but also forfeit all the Wealth
they have got by oppressing the miserable Peo-
ple, except only that which shall be allow'd
them by the Goodness of our Gracious Prince.
The same Sentence we likewise pronounce a-
gainst Geilanus, the said Suintilanus his
Brother, as in Blood, so in Crimes and
Wickedness, who was perfidious to his own
Brother, and has broken his Faith promised
to our most Glorious Lord; wherefore we also
cast

These Quali-
fications of a
good Prince,
are most of
them taken
out of St. Au-
stin, Lib. 5. de
Civitate Dei.

cast him and his Wife, and banish them from our Society, together with those before-mention'd, and exclude them from the Commonwealth of our Nation, and that they shall not be restor'd to the Possessions which by Wickedness they had gotten, except only what they may obtain from the Bounty of our most Gracious Prince, who as he is ready to enrich those that are good with bountiful Rewards, so neither does he altogether exclude those that are wicked from his diffusive Beneficence. Now

Glory and Honour be ascrib'd to our Almighty God, in whose name we are here assembl'd; and may Happiness, Peace, and a long continu'd Reign be the portion of our most Pious Lord and Lover of Christ, King Sisenand, whose Piety and Devotion has call'd us to this Assembly to establish and enact this wholesom Decree. May the Glory of Christ strengthen and establish his Kingdom and the Gothick Nation in the Catholick Faith, and multiply his Tears and Virtues, preserving him to the highest old Age; and may he after the Glory of his Reign here on Earth, pass over to the Eternal Kingdom in Heaven, that he may reign there without end, who here has reign'd well and happily by the Grace and Help of him who is King of Kings and Lord of Lords, with the Father and Holy Spirit for ever and ever. Amen.

The things above written being thus decreed and determin'd by us, with the Consent and Approbation of our most Religious Prince, we also have engag'd never to infringe any Point thereof, but exactly to keep and observe the same. And because these things do greatly concern the good of the Church, and the welfare of Souls, we have thought fit to strengthen and confirm the same by our particular Subscription, that they may stand ratify'd for ever. And accordingly was subscrib'd by all of them.

ti Gloria regnum illius, * gentisque Gothorum in fide Catholica: annis & meritis protegat illum usque ad ultimam senectutem summa Dei gratia: & post presentis regni gloriam, ad æternum regnum transeat; † ut sine fine regnet, qui * intra sæculum feliciter imperat; ipso præstante qui est Rex regum & Dominus dominantium, cum Patre & Spiritu Sancto in Sæcula Sæculorum. Amen.

* gentesque.

† &c.
* in sæculo.

Definitis itaque iis quæ superius comprehensa sunt, annuente religiosissimo principe, placuit deinde, nulla re impediante, a quolibet nostrum ea quæ constituta sunt temerari, sed cuncta salubri consilio † conservare: quæ quia profectibus Ecclesiæ, & animæ nostræ conveniunt, etiam propriâ subscriptione, ut permaneant, roboramus *.

† conserva-
ri.
* &c. subscripserunt omnes.

An Advertisement concerning the ARTICLES of the Magna Charta of King John: As also concerning the Magna Charta now printed in this Appendix.

THESE Articles or Capitula were found in the Study of Bishop Warner, late Bishop of Rochester: They were communicated by a Gentleman of that Family to Mr. Geddis, and by him to the present Bishop of Salisbury.

Circumstances.

There can be no reasonable scruple rais'd against the Authentickness or Truth of the Writing: For

Authority of them.

1. It is in a Hand very antient: They that are competent Judges of such Antiquities, say, It well pretendeth to the Time of which it treateth.

2. It hath yet appendant the Seal of King John, without any suspicion of being lately affix'd.

3. In the famous Library of Sir John Cotton, there are now to be seen many private Charters of King John, which exactly agree with this, both in respect of the Writing, and also of the Seal.

4. In the Books of the Archbishoprick of Canterbury, amongst many things there entred, of the time of King John, these Articles are recorded, and were thence transcrib'd, many Years before the Original of them came into the Hand of the Bishop of Salisbury.

5. This Instrument is the same which Matth. Paris mentioneth Page 254. by the name of Scedula. Archiepiscopus Schedulam illam, &c. "The Arch-Bishop, with others, bringing that Schedule to the King, recited before the King all the Capitula,"

"1a, &c.— Which tho the King then rejected, yet shortly after upon better Advice, he granted; as may be gather'd from the next Page of *Matth. Paris*.

These Arguments may satisfy those, who since the late mentioning of these Articles in the *Pastoral Letter* of the Bishop of *Salisbury*, have had the civility to doubt of the Truth of the whole Matter.

The substance of them.

1. As to the substance of these Articles; It is to be observ'd, that they contain some part of the Rights of the Barons, due to them by the unwritten or Common Law of the Land: which Rights, for more certainty, were in several Reigns drawn into Writing; and, for more obligatoriness, into Charters, after the entrance of the *Normans*. In the Time of the *Confessor*, they were contain'd in the Laws of that King. *William the Conqueror* confirm'd (to the old and new Barons of his Investiture, according to the Custom of *England*) the Laws of the *Confessor*, as appeareth by the Record in *Ingulph*, and other Testimonies.

Confirm'd by W. Rufus.

2. These Articles, or the Laws of the *Confessor*, were recogniz'd, and by Oath re-confirm'd by *William Rufus*, no doubt at his Coronation, or not long after. The old *English Chronicle* writeth thus, *William Rufus by his Letters summon'd the Bishops, Earls and Barons to St. Pauls; and there he sware, and made to them Surety by Writing, to sustain and maintain the Right.*

Ratify'd by Hen. I.

3. King *Henry I.* ratify'd these Rights. In his Charter we find in general, *Lagam Edwardi Regis vobis reddo cum iis emendationibus, quibus Pater meus eam emendavit, &c. I restore to you the Law of King Edward, as it was mended (or enlarg'd) by my Father, with the Advice of his Barons.*

K. John confirms them.

4. It is evident that King *John* (to omit others) both by his Coronation Oath, and at other times, confirm'd these Articles or Explanations of the Old Law. *Matth. Paris*, pag. 239. The King (*John*) strictly commanded that the Laws of his Grandfather King *Henry* should be observ'd by the whole Kingdom. But what this Law of King *Edward*, or Emendations contain'd, the same *Matth. Paris* setteth down in short, pag. 252. The Charter of King *Henry* [the First] contain'd certain Liberties and Laws of King *Edward*, granted to the Church of *England* and the great Men; as also some Liberties superadded by King *Henry I.* And pag. 254. *Capitula quoque legum & libertatum, &c.* The Heads (or Articles) of the Laws and Liberties which the great Men desir'd to be confirm'd, are already entred, partly above in the Charter of *Henry I.* and partly were gather'd out of the old Laws of King *Edward*. The Historian speaketh of these very Articles here printed.

No mention of the Liberties of the Church.

5. 'Tis observable, that in these Articles there is no care taken for the Liberties of the Church. The reason of which I take to be this: The Churchmen mostly then held with the King: And the Hand of the King was most heavy upon the Laitie, who framed these Articles without the Clergy.

6. These Articles provide nothing concerning the Summons and holding of the Common Council of the Realm. The reason whereof probably was this: The Barons of that time had introduc'd a Practice, of themselves to appoint the Time and Place of the Meeting of the Common Council of the Nation. At the granting of these very Articles, King *John* sent to the Barons; *Ut diem & locum providerent congruum, ad hæc omnia prosequenda: That they (the Barons) would appoint Time and Place for the concluding that matter.* In the Time of *Henry the Third* (in whose Charter the Article *de communi concilio habendo* was omitted, and in whose Time the Barons begun again the War) we find that the Lords came unto the King and said, *He must ordain and see for the Welfare of the Realm; and then set the King a Day to meet at Oxenford, and there to hold a Parliament.* So the *English Chronicle*. However, this grand Affair, as also that of the Church, were provided for in the *Magna Charta* of King *John*. Whereby it further appears, that these Articles were but the Rudiments of that Charter, after further enlarged upon further deliberation.

I come now in the second place to say a few things concerning the Perfect and Compleat *Magna Charta* of King *John*, here printed in *French*.

Three Copies of all publick Acts.

1. It was the custom of old Times to make three several Copies of Publick Acts and Charters. Of the *Magna Charta* we have one in *Latin*, in *Matthew Paris*. This in *French* (or old *Norman Language*) was kept in the Records of *France*, and thence publish'd some Years past by *Luke Dachery* in his *Spicilegium*. That in *English* was sent into all Counties, but as yet no Copy in this Language appeareth.

Thus also the Laws of *Canute*, and the Provisions of *Oxford* (to mention no more) made in the Time of *Henry the Third*, were publish'd in three Languages.

2. The

2. The very same Charter publish'd in *Latin* by *Matthew Paris*, is also extant in the History of *Rad. Niger*, almost word for word; and also in two several Manuscripts in the *Cotton Library*; where also about twenty Years past the very Original was to be seen.

3. The *Magna Charta* of King *John* is not extant in any Record in the *Tower*, or elsewhere, as several affirm; nor the *Magna Charta* of *Henry the Third*, but only by *Inspeximus* in the Time of *Edward the First*; a thing much to be wonder'd at. *Rudburne* writeth of the Charters of *Henry the First*, *Sublatæ sunt omnes variis fallaciis, exceptis tribus; All but three were embeszel'd.* *R. John's Magna Charta is not in the Tower.*

4. The *Magna Charta* of King *John*, and that of *Henry the Third*, are said to be the very same; whereas they do exceedingly differ, as *Mr. Selden* in his *Epinomis* hath partly observ'd, and may further appear to any that will compare them. *Matthew Paris*, pag. 323. The Tenor of these Charters is fully set down above, where our History treateth of King *John*; so as the Charters of King *John* and *Henry the Third*, are not found to differ in any thing. These words are not the words of *Matthew Paris*, but of *Roger Wendover* (whom *Matthew Paris* often transcribeth very hastily) in whose History the Charter entred as King *John's*, is exactly the same with that Charter of *Henry the Third*. *Magna Charta of K. J. and H. III. wherein they agree and differ.*

5. As to that remarkable Article, *Et ad habendum commune concilium Regni* — And to the holding the Common Council of the Realm, &c. I shall briefly say, 1. That it hath been left out of all the Charters after King *John's* Time, but is found in several Copys very Authentick, and particularly in the *French Copy* now here printed. 2. That this Article doth not, as some have written, give the Original to our Parliaments; for such Parliaments (or *communia concilia*) were held before this time. *Richard the First*, after his return from the Holy War, summon'd a Common Council (or Parliament) at *London*, of the Clergy and Laity, where he demanded Counsel about his making War upon the King of *France*. *Earl Roger* answer'd for the whole Parliament: *The Earls, Barons and Knights, will aid you, O King, with their Swords; the Archbishop, Bishops, Citizens, Burgeesses, and Ecclesiastick Persons, will aid you with Money; Abbats, Priors, and such others, will aid you with their Prayers.* So the *English Chron.* And to omit others, an Instance of such a Parliament is found in the *Annals of Burton*, pag. 263. compar'd with pag. 265. *King John* call'd to *Northampton* all the *Earls and Barons* of *England*: it followeth, *Pandulphus* spake (at the same time) to the *Earls, Barons and Knights*, *O that you, &c.* The Clergy indeed are not here mention'd, but were certainly present, because the occasion of that Council was to restore Peace to the Church and Kingdom, as *Matthew Paris*, or as the *Annalist* of *Waverly* wordeth it, *betwixt the King and the Archbishop.* 3. I conceive the chief end of adding this Article, was to prevent the taking of Aids (commonly call'd *Talliage*) or *Escuage*, by surprize, or by the consent only of a few, which King *John* had lately done. For the summoning of the *Commune Concilium* here is plainly limited to the *Sessing of Aids and Escuage*: But the *Mirror* giveth another account of the meeting of Parliaments, worthy of consideration, pag. 225. where the Author refers us to higher Times.

There is yet one Article more in this Charter of King *John* which deserveth our Regards, the rather because it being lately alledg'd in the *Pastoral Letter*, hath much scandaliz'd some with its surprizing Novelty.

The words are, *Barones cum communia totius terræ gravabunt nos.* The Barons with the Community of the Land, shall aggrieve, or distress us, &c. But why should this sound uncouth to any, who hath with reflection perus'd the Histories of this, or the neighbouring Kingdoms, wherein the same Practice is frequently found? *Andrew King of Hungary* allow'd the same Liberty to his People, as may be seen at large in the *Decrees of the Kings of Hungary*, in the end of *Bonfinius*: Like Examples occur in the *French Annals*, and in the *Annals of Waverly* in the time of *Henry the Third*, pag. 217.

If any will yet suspect that *Matthew Paris* in this Point hath not writ fairly, or that the Articles produc'd by the Bishop of *Salisbury* are not to be rely'd on (and some such dissatisfy'd People there are) then let them (if they can be believ'd desirous of Satisfaction) repair to the *Red Book of the Exchequer*, where, *Fol. 234.* they may find the very same words, and Liberty granted as before: Which Record cannot well be suspected of being corrupted, because it hath been always in good Custody.

*Capitula super quibus facta est Magna Charta Regis
Johannis, ex MS. Arch. Cantuar. Fol. 14. Quæ etiam authentice
cum Sigillo extant in manibus Episc. Salisburiensis.*

ISTA sunt Capitula quæ Barones petunt, & Dominus Rex concedit, signata Sigillo Johannis Regis.

Post decessum Antecessorum hæredes plenæ ætatis habebunt hæreditatem suam per antiquum relevium exprimendum in Charta.

Hæredes qui intra ætatem sunt & fuerunt in custodia, cum ad ætatem pervenerint, habebunt hæreditatem suam sine relevio & fine.

Custos terræ hæredis capiet rationabiles exitus, consuetudines & servitia sine destructione & vasta hominum & rerum suarum. Et si Custos terræ fecerit destructionem & vastam, amittat custodiam, & custos sustentabit domos, parcos, vivaria, stagna, molendina, & cætera ad terram illam pertinentia de exitibus terræ ejusdem. Et ut hæredes ita maritentur ne disparagentur & per concilium propinquorum de consanguinitate sua.

Ne vidua det aliquid pro dote sua, vel maritaggio Mariti sui, sed maneat in domo sua per XC. dies post mortem ipsius: & infra terminum illum assignetur ei Dos, & maritagium statim habeat & hæreditatem suam. Rex vel Ballivus non saisiet terram aliquam pro debito dum catalla debitoris sufficient, nec plegii debitoris distringantur dum capitalis debitor sufficit ad solutionem. Si vero capitalis debitor defecerit in solutione, si plegii voluerint habere debitoris donec debitum illud persolvatur plene, nisi capitalis debitor monstrare poterit se esse inde quietum erga plegios.

Rex non concedit alicui Baroni quod capiat auxilium de liberis hominibus suis, nisi ad caput suum redimendum, & ad faciendum primogenitum filium suum Militem, & ad primogenitam filiam suam maritandam, & hoc faciet per rationabile auxilium.

Ne aliquis majus servitium faciat de feodo militis quam inde debetur: ut communia placita non sequantur curiam Domini Regis; sed assignentur in aliquo certo loco, & ut recognitiones capiantur in ejusdem comitatibus in hunc modum. Ut Rex mittat duos Justitiarios per quatuor vices in anno, qui cum quatuor militibus ejusdem comitatus electis per comitatum capiant assisas de nova disseisina, morte antecessoris, & ultima præsentatione, nec aliquis ad hoc sit summonitus nisi juratores & duæ partes.

Ut liber homo amercietur pro parvo debito secundum modum delicti, & pro magno debito secundum magnitudinem delicti, salvo contenemento suo. Villanus etiam amercietur, salvo vainagio suo, & mercator eodem modo, salva mercandisa, per Sacramentum proborum hominum de visneto, ut clericus amercietur de laico feodo suo secundum modum aliorum prædictorum & non secundum beneficium Ecclesiasticum.

Ne aliqua villa amercietur pro pontibus faciendis ad riparias, nisi ubi de jure antiquitus esse solebant.

Ne mensura vini, bladi, & latitudines pannorum, & rerum aliarum emendetur, & ita de ponderibus.

Ut assisa de nova disseisina & de morte antecessoris abbrevientur, & similiter de aliis assisis.

Ut nullus Vicecomes intromittat se de placitis ad Coronam pertinentibus sine coronatoribus, & ut Comitatus & Hundreda sint ad antiquas firmas absque ullo incremento, exceptis dominicis Maneriis Regis.

Si aliquis tenens de rege moriatur, licebit Vicecomiti vel alio Ballivo Regis saisir & inbreviare catallum ipsius per visum legalium hominum, ita tamen quod nihil inde amoveatur donec plenius sciatur si debet aliquid liquidum debitum Domini Regis, & tunc debitum Domini Regis persolvatur. Residuum vero relinquetur executoribus, ad faciendum testamentum defuncti. Et si nihil Regi debetur, omnia catalla cedent defuncto.

Si aliquis liber homo intestatus decesserit, bona sua per manum proximorum parentum suorum & amicorum, & per visum Ecclesiæ distribuantur.

Ne viduæ distinguantur ad se maritandum dum voluerint sine marito vivere, ita tamen quod securitatem facient quod non maritabunt se sine assensu Regis, si de Rege teneant, vel dominorum suorum de quibus tenent.

Ne Constabularius vel alius ballivus capiat blada vel alia catalla, nisi statim inde reddat, nisi respectum habere possit de voluntate venditoris.

Ne Constabularius possit distringere aliquem militem addandum denarios pro custodia castri si voluerit facere custodiam illam in propria persona, vel per alium probum hominem, si ipse eam facere non possit per rationabilem causam. Et si Rex cum duxerit in exercitum sit quietus de custodia secundum quantitatem temporis.

Ne vir vel Ballivus Regis vel aliquis alius capiat equos vel carectas alicujus liberi hominis pro carriagio faciendo nisi ex voluntate ipsius.

Ne Rex vel Ballivus suus capiat alienum boscum ad castra vel ad alia agenda nisi per voluntatem ipsius cujus boscus fuerit.

Ne Rex teneat terram eorum qui fuerint convicti de feloniam, nisi per unum annum & unum diem; sed tunc reddatur Domino feodi.

Ut omnes videlli de cætero penitus deponantur in Eamisia & Medeceoge & per totam Angliam.

Ne breve quod vocatur *Percipe de cætero* fiat alicui de aliquo tenemento unde liber homo amittat Curiam suam.

Si quis fuerit dissaisitus vel prolongatus per Regem sine judicio de terris, libertatibus, & jure suo, statim ei restituatur; & si contentio super hoc orta fuerit, tunc inde disponatur per judicium XXV. Baronum, & ut illi qui fuerint dissaisiti per promotorem vel fratrem Regis, certum habeant sine dilatione per judicium parium suorum in curia Regis. Et si Rex debeat habere terminum aliorum Crucesignatorum, tunc Archiepiscopus & Episcopi facient inde judicium ad certam diem appellatione remota.

Ne aliquid detur pro brevi inquisitionis de vita vel membris, sed libere concedatur sine pretio, & non negetur.

Si aliquis tenet de Rege per feodifirmam, per soccagium, vel burgagium: & de alio per servitium militis, Dominus Rex non habebit custodiam militum de feodo alterius occasione Burgagii, vel Soccagii, vel feodifirmæ; nec debet habere custodiam Burgagii, Soccagii vel feodifirmæ, & quod liber homo non amittat militiam suam occasione parvarum sergantiarum sicuti de illis qui tenent aliquod tenementum, reddendo inde cultellos, vel sagittas vel hujusmodi.

Ne aliquis Ballivus possit ponere aliquem ad legem simplici loquela sua sine testibus fidelibus.

Ne corpus liberi hominis capiatur nec imprisonetur, nec dissaisietur, nec utlagetur, nec exuletur, nec aliquo modo destruat.

Nec Rex eat vel mittat super eum vi nisi per judicium parium suum vel plegem terræ.

Ne jus vendatur, vel differatur vel vetitum sit.

Quod Mercatores habeant saluum ire & venire ad emendum vel vendendum sine omnibus malis per antiquas & rectas consuetudines.

Ne scutagium vel auxilium ponatur in Regno, nisi per commune concilium Regni, nisi ad corpus Regis redimendum & primogenitum filium suum militem faciendum & filiam suam primogenitam semel maritandam, & ad hoc fiat rationabile auxilium. Simili modo fiat de scutagiis & auxiliis, de civitatibus quæ inde habent libertates, & ut Civitas London. plenè habeat antiquas libertates & liberas consuetudines suas tam per aquas quam per terras.

Ut liceat unicuique exire de regno, & redire salva fide Domini Regis, nisi tempore Werræ per aliquod breve tempus propter communem utilitatem regni.

Si quis mutuo aliquid acceperit à Judæis plus vel minus, & moriatur antequam debitum illud solvatur, debitum non usurabit quamdiu hæres infra ætatem, de quocumque teneat. Et si debitum illud inciderit in manum Regis, Rex non capiet nisi catalum quod continetur in Charta.

Si quis moriatur & debitum debeat Judæis, uxor ejus habeat dotem suam; & si liberi remanserint, provideant iis necessaria secundum tenementum, & de residuo solvatur debitum, salvo servitio Dominorum. Simili modo fiat de aliis debitis, & ut custos terræ reddat hæredi cum ad plenam ætatem pervenerit terram suam restauratam secundum quod rationabiliter poterit sustinere de exitibus terræ ejusdem de Carucis & Mainagiis.

Si quis tenuerit de aliqua escaeta sicut de honore Wallingfor & Nottingham, Bonon & Lancaster, & de aliis escaetis quæ sunt in manu Regis, & sunt Baroniar, & obierit, hæres ejus non dabit aliud relevium vel faciet aliud servitium quam faceret Baroni, & ut Rex eodem modo eam teneat quo Baro eam tenuit.

Ut fines qui facti sunt pro dotibus, maritagiis, hæreditatibus & amerciamentis, injustè & contra legem terræ, omnino condonentur, vel fiat inde per judicium XXV. Baronum, vel per judicium majoris partis eorundem una cum Archiepiscopo & aliis quos secum vocare voluerit, ita quod si aliquis vel aliqui de XXV. fuerint in simili querela, amoveantur, & alii loco illorum per residuos de XXV. substituantur.

Quod obsides & Chartæ reddantur quæ liberatæ fuerunt Regi in securitatem.

Ut illi qui fuerint extra forestam non veniant coram Justitiarium de foresta per communes summonitiones, nisi sint in placito vel plegii fuerint, & ut pravæ consuetudines de forestis & de forestariis & Warennis & Vicecomitibus & vivariis emendantur per XV. milites de quolibet comitatu qui debent eligi per probos homines ejusdem comitatus.

Ut Rex amoveat penitus de Wallia parentes & totam sequelam Gerardi de Aties quod de cætero Balliam non habeant, scilicet Engelandum, Andr. Petrum, & Gigonem de Cances, Gigonem de Cygon, Mattheum de Martino & fratres ejus & Gelfrid nepotem ejus & Philippum de Marke.

Et ut Rex amoveat alienigenos milites, Stipendiarios, Ballistarios & Ruttarios, & Servientes qui venerunt cum equis & armis ad nocumentum regni.

Ut Rex faciat Justitiarios, Constabularios & Vicecomites & Ballivos de talibus qui sciant legem terræ & eam velint bene observare.

Ut Barones qui fundaverunt Abbacias unde habent chartas Regum vel antiquam tenuram, habeant custodiam earum cum vacaverint.

Si Rex Walenses dissaisierit vel elongaverit de terris, vel libertatibus, vel derebus aliis in Anglia vel in Wallia, eis statim sine placito reddantur: & si fuerint dissaisiti vel elongati de tenementis suis Anglicis per patrem vel fratrem Regis sine judicio parium suorum, Rex eis sine dilatione justitiam exhibebit eo modo quo exhibet Anglicis justitiam de tenementis suis Angl. secundum legem Angl. & de tenementis Wall. secundum legem Wall. & de tenementis Marchiæ secundum legem Marchiæ. Idem facient Wallenses Regi & suis.

Ut Rex reddat filium Lewelini & præterea omnes obsides de Wallia, & Chartas quæ ei liberatæ fuerunt in securitatem pacis.

Ut Rex faciat Regi Scotiæ de obsidibus reddendis & de libertatibus suis & jure suo secundum formam quam fecit Bar. Angl. nisi aliter esse debeat per Chartas quas Rex habet per judicium Archiepiscopi & aliorum quos secum vocare voluerit.

Et omnes forestæ quæ sunt aforestatæ per regem tempore suo deafforestent, & ita fiat de ripariis quæ per ipsum Regem sunt in defenso.

Omnes autem istas consuetudines & libertates quas Rex concessit regno tenendas quantum ad se pertinet, erga suos omnes de regno tam Clerici quam Laici observabunt quantum ad se pertinent erga suos.

Hæc est forma securitatis ad observandam pacem & libertates inter Regem & Regnum, Barones eligent XXV. Barones de regno quos voluerint, qui debent pro totis viribus suis observare, tenere, & facere observari pacem, & libertates quas Dominus Rex eis concessit, & Charta sua confirmavit. Ita, viz. Quod si Rex, vel Justitarius, vel Ballivi Regis vel aliquis de ministris suis in aliquo erga aliquem deliquerit, vel aliquem articulum pacis, aut securitatis transgressus fuerit, & delictum ostensum fuerit IV. Baronibus de prædictis XXV. Baronum: illi IV. Barones accedent ad Dominum Regem vel ad Justitiarium suum, si Rex fuerit extra regnum, proponentes ei excessum, & petent ut excessum illum sine dilatione faciat emendari. Et si Rex vel Justitarius illud non emendaverit, si Rex fuerit extra regnum, infra rationabile tempus determinandum in Charta, prædicti IV. referent causam illam ad residuos de illis XXV. Baronibus, & illi XXV. tum communia totius terræ destingent & gravabunt Regem modis omnibus quibus poterint: scilicet per captionem castrorum, terrarum possessionem & aliis modis quibus poterint, donec fuerit emendatum secundum arbitrium eorum, salva Persona Domini Regis & Reginæ, & Liberatorum suorum. Et cum fuerit emendatum, intendunt Domino Regi sicut prius. Et quicumque voluerit de terra, jurabit ad prædicta exequenda, pariturum mandatis prædictorum XXV. Baronum, & gravaturum Regem, pro posse suo cum ipsis. Et Rex publicè & libere dabit licentiam jurandi cuilibet qui jurare voluerit, & nulli unquam jurare prohibebit. Omnes autem illos de terra qui sponte suâ, & per se jurare voluerint XXV. Baronibus

ronibus de distringendo & gravando Regem cum iis cunctis Rex faciet jurare eisdem de mandato suo sicut prædictum est.

Item si aliquis de prædictis XXV. Baronum decesserit, vel à terra recesserit, vel aliquo alio modo impeditus fuerit quominus ista prædicta possit exequi, qui residui fuerint de XXV. eligent alium loco ipsius pro arbitrio suo, qui simili modo erit juratus quo & cæteri. In omnibus autem quæ istis XXV. Baronibus committantur exequenda, si fortè ipsi XXV. præsentés fuerint & inter se super re aliqua discordaverint, vel aliqui ex eis vocati voluerint vel nequeant interesse, ratum habebitur & firmum quod major pars ex eis providerit vel præceperit, ac si omnes XXV. in hoc consensissent. Et prædicti XXV. jurabunt quod omnia antedicta fideliter observabunt, & pro toto posse suo facient observari. Præterea Rex faciet eos securos per Chartas Archiepiscopi & Episcoporum & magni Pandulphi, quod nihil impetrabit à Domino Papa per quod aliqua istarum conventionum revocetur vel minuatur. Et si aliquid tale impetraverit, reputetur irritum & inane, & nunquam eo utatur. Sine dato.

*Sic & M.
Ch. Episc.
Sar.*

*D. Matth.
Par.*

*Hic & Ch.
M. Episc.
Sar. sine
dato.*

DIPLOMA REGIUM:

*Eruit D. d'
Heroval.*

S I V E

*Ordinationes JOHANNIS Regis Angliæ, queis statuit
quid Nobiles, quid Plebeii observare debeant, ad pacem & tranquillitatem Regni stabiliendam.*

VIII. **J**OHAN par la grace de Deu Roi Dengleterre, as Arceveskes, as Eveskes, as Abbez, as Contes, as Barons, as Justises, as Forestiers, as Viscontes, as Prevost, as Ministres, & a toz ses Bailliz, & ses féels, saluz. Sachiez que nos par la grace de Deu & pur le sauvement de nostre asme, & de toz nos ancestres, & de nos eirs, & de lenor de Deu, & le sauvement de seinte Iglise, & la mendment de nostre Regne, par le conseil de noz enorez peres Larceveske Estienne de Cantorbire Primat de tote Engleterre & Cardinal de Rome, & Larceveske Henri de Diveline, & Leveske Willaume de Londres, Leveske Pieres de Wincestre, Leveske Jocelin de Ba, Leveske Hue de Nichole*, Leveske Gautier de Wirecestre, Leveske Will. de Cestre, & Leveske Beneit de Rovecestre, & Maître Pandol Sodiacre nostre Seigneur Lapostoire, & nostre ami frere Anner Maistre de la Chevalerie del Temple de Engleterre, & de nos Barons Will. le Marescal Comte de Penbroke, Will. Conte de Salisbires, Will. Conte de Warene, Will. Conte de Arondel, Alain de Galwche, Conestable d'Escoce, Warin le fiz Gerod, Peres le fiz Herebert, Hubert de Borc Seneschau de Peitou, Hage de Nuevile, Matheu le fiz Herebert, Thomas Basset, Alain Basset, Philippe Daubeigni, Robert de Ropelée, Johan. Marescal, & Johan le fiz Hue, & de nos autres féels.

*Anno Chr.
1215.*

** Lincolne.*

Premierement que nos avons ottie * a Deu & le confermons par ceste nostre presente Chartre, por noz, & por nos eirs a toz iorz, que les Yglises de Engleterre, seront franchises & aient lor dreitures franchises & enterines & plenieres, & volon que cili seit garde la que chose apert, par co que nos otriames par nostre pure volunte & de gre les franchises des Elections que len tiennent par plus grant & par plus necessaire as Yglises de Engleterre, devant que la descorde fust commencie entre nos & nos Barons, & la confirmames par nostre Chartre & parchacames que ele fu confirmée par nostre Seigneur Lapostoire Innocent le tiers, laquelle nos garderons & volons que nostre eir la gardent toz jorz en bone fei.

** otriè.*

Nos avon encore otrie a toz les francs homes de nostre Regne pur nos, & pur nos eirs a toz iorz totes les franchises qui de soz sunt escrites, quil les aient & les tiegnent il & lor eir de nos & de nos eirs, se acuns de nos Contes, vo de nos Barons, vo des autres qui tiennent de nos en chief par servise de Chevalier mora, & quant il sera mors & ses eirs fera de plein aage & devra relief, ait son heritage par l'ancien relief, co est a savier li eir, ou li eir del Conte, de Baronie Contal entiere par C. livres li eirs ou li eir del baron de la barone par C.

C. livres: li eirs ou li eir de Chevalier de fie de Chevalier entier par C. sol au plus, & qui meins devra meins doinst solon l'anciene costume del fie.

Si le eirs d'aucun di tels sera dedens aage, & sera en garde; quand il sera parvenu a aage ait son heritage sans relief & sans fin.

Les gardeors de la terre de tel heir qui sera dedens aage ne pregne de la terre de leir fors Reignables, eissues & Reignables costumes, & Reignables services, & ce senz destruiement, & senz vast des homes & des choses.

Et se nos avons livree la garde de la terre daucun itel a Visconte o a acune altre qui nos dei respondre des eissues de la terre, & cil de la garde fera destruiement o galt, nos prendrons de celuy amende, & la terre sera livree a deus leals prodeshomes de cel fei qui respoignent des eissues a nos, o celui que noz comanderons.

Et se nos avons done o vendu a aucun la garde de la terre de aucun itel, & cil enfra destruiement o wast par de cele garde, & seit livre a deus leials sage prodeshomes & dicele que i nous respoignent, si come nos avons devant dit.

Et si le gardior tant dis com il aura la garde de tele terre, sostinges les meisons, les viviers, les pars, les estants, les molins, & les autres choses qui apartient a cele terre de eissues, & de celle meimes terre: & rendra al heir quant sera parvenus en plain aage sa terre tote estore de charues, de granges, solon quoque li tens de la gaignerie requera, & les eissues de la terre porront musurablement soffrir reisnablement.

Li heir scient marie sans desparagement eissi ne purquant que ainz que li mariage seit fet, seit mostre al prochains del lignage de cel heir.

La Veve empres la mort de son mari namtenant & sans grevance ait son mariage & son heritage, ne riens ne doinst pour son mariage, ne pour son doaire, ne pour son heritage que elle & ses maris tindrent, al ior de la mort del mari, & seit en la maison de son mari puis quil sera mort xl. jorz dedens les quels jorz li seit les doairez livrez.

Nule Veve ne seite destreite de sei marier tant dis come ele voldra vivre sanz mari essi ne purquant que ele face seurte que ele ne se marira sanz nostre otrei, se ele tinent de nos o senz lotrei de son Seignor de qui elle tient, se ele tient dau-trui.

Ne nos ne nostre Bailli ne seiseron terre ne rente del dettor pour aucune dette tandis com sis chattels sofficient a paier la dette, ne si plege ne seront destroit tant dis come le chevetaigne dettor soffira a la dette paier. Et se le chevetaigne detor na de quei paier sa dette, respoigne li plege de la dette. Et sil volent aient les terres, & les rentes del detter jusqu'il aient restoremment de la dette quil ont devant paiee pour lui; se le chevetaigne detor ne monstre quil en est quitte vers cels pleges.

Se aucuns a emprunte as Jeus * plus o meins, & muert devant quil lor ait paie lor avoir, ne croise mie la dette tant dis com li heirs sera dedens aage, & se cele dette vient en nos mains nos nen prendron que le chastel * que nos troveron en la charte.

Et se aucun muret, & deit dette as Jeus, sa feme ait son doaire, & ne paiet nient de cele dette, & se li enfant qui remaindront del mort sont dedenz aage, porveu lor seit lor estoveir raisnablement solonc le tenement qui fu del mort, & del remanant seit paiee la dette, sauf le service des Seignors, & en tel maniere seit fait de dettes que l'on deit a autres que a Jues.

Len ne mettra nul escuage †, ne aie || en nostre Regne, fors par commun conseil de nostre Regne, fors a nostre reumbre * & a nostre ainzne fiz faire Chevalier, & a nostre ainznée fille marier une feiz; & a cestes choses ne face len aie se raisnable non.

En cele mainere seit fait daies de la cite de Londres, & estre co la cite de Londres ait totes ses ancienes costumes, & ses Franchises, & par mer & par aigue.

Nos volons estre co, & otrions que totes les autres citez & li borc, & les viles, & li port aient en totes lor franchises, & lor franchises costumes, & aient le commun conseil del Regne, de laie a asseoir autrement que as treis cas qui sont devant dit.

E lescuage aseer ferons somondre les Arceveskes, les Eveskes, les Abbez, les Comtes, les greignors Barons: chacun par sei par nos lettres, & estre co ferons somondre en commun par nos Viscontes, & par nos Bailliz toz ceus qui de nos tinent en chief a certain jor, co est al terme de xl. jorz al mains & a certain lieu, & nomerons la cause en totes lettres de ceste somonse. Et quant la somonse sera

* Id est
iuis.

* Id est,
le capital,
le principal.

† f. taille.
|| aide.
* Id est,
ad nostrum corpus redimendum
si in bello
capti fuerimus, ut
infra.

issi feite voist li affaires avant, au jor assigne solon le conseil di cels qui seront present
ja seit co que ne soient pas venu tuit cil qui furent somons.

Nos notrions a nul des ore en evant quil pregne aie de ses frans homes fors a son
cors raimbre * & a son ainzne fiz faire Chevalier, & a sa fille ainznee marier une * Vide su-
pra.

seiz & a co ne seit fait aie se raisnable non.
Nuls ne seit destreinz a faire grenor servise de fieu de Chevalier o daltre franc
tenement, que tant come il tient & deit.

Li commun plait ne soient mie nostre cort, mais soient tenu en aucun certain lieu.

Les reconuissances de novele deslaissine de mort dancestre, & de darrain present-
ment ne soient prises fors en lor Contez & ceste maniere: Nos o nostre Cheve-
tains Justiciers se nos fumes fors del Regne envierons deus justices par chascun Con-
te par IV. seiz en lan qui o quatre des Chevilers de chascun Conte eleuz, par le Con-
te prenent el Conte, & el jor del Conte, & en certain lieu les devant dites assises,
& se les devant dites assises ne puent estre prises el jor del Conte, tant Chevaliers &
franchement tenanz remaignent de cels qui furent present al Conte en icel jor par
qui puissent jugement estre fait solumment, solon co qui li affaire sera plus grant
o plus petit.

Frans hom ne seit amerciez pour petit forfait fors solon la maniere del forfait &
pour le grant forfait seit amerciez solonc la grandescence del forfait sauf son
contenement, & li marcheant ensemt sauve la marchandise. Li Vilain ensemt
seit amerciez saals son gaagnage sil chiet en nostre merci, & nule des devant dites
merciz ne sera mise fors par le serement de prodomes & des leaus des visnez.

Li Conte & li Baron ne soient amerciez fors par lor pers & solonc la maniere del
forfeit.

Nus clers ne soit amerciez de son lai tenement, fors solonc la maniere des al-
tres qui devant sunt dit, & nun pas solonc la quantite de la rente de Siglise *.

Ne vile ne home ne seit destreinz a faire pontz a rivières, fors cil qui ancienne-
ment & par drect les devant faire. * f. des
Iglise, ou
de Liglise.

Nuls Visquents ne Conestables ne nostre Coroneor ne nostre altre Bailli ne ti-
egnent les plaiz de nostre Corone.

Chascune Contez, Hundres, Wapulzac, & Treingues, soient as anciennes fer-
mes sens nul croisement, fors nos demeins maniers.

Se aucuns qui tient lai fie de nos muert & nostre Visquents, o autres nostre Bailliz,
monstre nos lettres overtes de nostre semonse de la dette que li mort nos doit,
leissie a nostre Visconte o a nostre Bailli atachier & enbrever les chatels del mort,
qui seront trove el lai fie a la vaillance dicelle dette, que li mort nos doit par
veue de leaus homes, eilli ne par quant que riens ne seit oste jusque nos seit paiee la
dette quiserà conue: & li remanant seit saissie as executors a faire le testament del
mort: & sil ne nos doivent rien tot li chatel soient otre al mort, sauves les re-
ignables parties de sa feme & de ses enfans.

Se aucuns frans huem muert senz testament, li chatel soient departi par les mains
des prochans parens & de ses amis par la veue de seinte Iglise, sauves les dettes a
chascun que le mort lor devoit.

Nus de nos Conestables ne de nos autres Bailliz ne pregne les bles, ne les autres
chatels daucun, se maintenant nen paie les deniers, sil nen puet aver respit par
volente del vendeor.

Nus Conestables ne destreigne nul Chevalier a doner deniers pour la garde del
Chastel, sil lavoit faite en sa propre persone u par autre prodome sil ne la puet
faire par aucune reignable achaisun *, & se nos le menons o enveions en ost, il sera
quites dicelle garde tant dis cum il sera par nos enlost. * Id est rai-
sonable
occasion.

Nus Viscontes ne nostre Bailliz ne autre ne pregne les chevaux ne les charet-
tes daucun franc home, pour faire cariage, fors par la volente de cel franc
home.

Ne nos ne nostre Baillie ne prendrons altrui bois a nos Chastels, o a nos autres
ovres faire, fors par la volente de celui cui sera li bois.

Nos ne tendrons les terres de cels qui seront convenue de felonie, fors un an
& un jor, & adons les rendrons as Seignors des fiez.

Tot li Kidel soient dici en avant oste del tot en tot de Tamise & de Medoigne, &
par tote Engleterre, fors par la costiere de la mer.

Li bries qui est apelez precipz des ci en avant ne seit faiz a nul daucun tenement,
dont frans hoem peust perdre sa cort.

Une mesure de vin seit par tot nostre Regne, & une mesure de cerverse, &
une mesure de ble, co est li quartiers de Londres, & une leise de dras teinz, &
de

* pois.

† mesures.

de rosez, & de habergie, co est deus aunes dedenz listes, & des peis * fait ensement come des mesures†.

Riens ne fait done ne pris des ci en avant pour le brief del enqueste de vie, o de membres de aucun, mais fait otrée en pur don, & ne fait esconduit.

Se aucuns tient de nos par feufirme o par, sokage, & tient terre daltrui par servise de Chevalier, nos n'aurons mie la garde del heir, ne de la terre qui est daltrui fie par achaison de cele feufirme, o del sokage, o del borgage. Ne n'aurons la garde de cele feufirme, o del sokage, o del borgage, se cele feufirme ne deit service de Chevalier.

Nos n'aurons la garde del heir ne de la terre dalcun, que il tient daltrui par servise de Chevalier, par achaison daucune petite serjanteri, quil tient de nos par servise de rendre saettes, o cotelz, o tels choses.

Nuls Bailliz ne mette des ci en avant aucun a lei par sa simple parole, fors par bons tesmoins amenez aice.

Nuls frans hom ne sera pris, ne emprisonnez, ne dessaisiz, ne ullagiez, ne eissilliez, ne destruis, ne aucune maniere, ne sor lui n'irons ne n'enveierons, fors par leal jugement de ses pers, o par la lei de la terre.

A nulli ne vendrons, a nulli nescondirons ne ne proloignerons dreir ne justise.

Tuit li marchant aient sauf & seur eissir d' Engleterre, & venir en Engleterre & demorer, & aler par Engleterre, par terre & par eaue a vendre & a chater, sans totes males totes par les ancienes drettes costumes, fors el tens de guerre, cil ki sunt de la terre qui nos guerroe, & se tel sunt trove en nostre terre el commencement de la guerre, soient atachie sans damage de lor cors & de lor choseo, jusqu'il fait seu de nos o de nostre chevetein Justifier coment li marcheant de la nostre terre seront traitie, qui donc seront trove en la terre qui contre nos guerroe, & se li nostre sunt ilucke sauf, soient si lor sauf en la nostre terre.

Leise chacun des ci en avant eissir de nostre Regne & repairier sauf & seur par terre & par eue sauve nostre fei, fors el tens de guerre par aucun petit tens pour preu del Regne: Mais di co sunt jet te fors li emprisonne, & li utlagie selon la lei del regne, & la gent ki contre nos guerroe. Des marcheans fait fait, si come nous avons devant dit.

Se aucuns tient daucune eschaette si come del honor de Walingeford, Notingham, Boloigne, Lancastre, u dautres echaetes quil sunt en nostre main, & sunt de baronie, & il muert, ses heirs ne doinst altre relief, ne face a nos autre servise, qui feist al Baron, ce cele Baronie fust en main del Baron, & nos la tendrons en tele maniere que le Baron la tint.

Li home qui maignent fors de la forest, ne vieignent de ci en avant devant nos Justises de la forest par communes somonces, sil ne sont en plait u plege de aucun ou d'aucuns qui soient atachie pour la forest.

Nos ne ferons Viscontes, Justises, ne Bailliz, fors de tels qui sachent la lei de la terre, & la voillent bien garder.

Tuit cil qui fonderent Abbeies, dont il ont charges des Reis d' Engleterre, o ancienne tenue, aiant en la garde quant eles seront voides, si com il avoit devant.

Totes les forez qui sunt aforestées en nostre tens soient maintenant desaforestées, et ensement fait fait des rивieres qui en nostre tens sunt par nos mises en defens.

Totes les males costumes des forez et des Warenes, et des Forestiers, et des Warrenniers, des Viscontes et de lor ministres des rивieres, et de lor gardes, soient maintenant enquistes en chascun Conte par xii. Chevaliers Jurez de meimes le Conte, qui devient estre esleu par prodeshomes de meimes le Conte et de denz xl. jorz apres co quil auront fette lenqueste, soient del tot en tot ostées par cels meimes, si que jamais ne soient rapelées, eissi ne por quant que nos le sachons avant nostre Justise, se nos ne sumes en Engleterre.

Nos tendrons maintenant toz les hostages et totes les chartres, qui nos furent livrées des Engleis en seurte de pais, o de feel servise.

Nous osteron de tot en tot des baillies les parens Girard d' Aties, si que des ci en avant n'auront nulle baillie en Engleterre, et Engelart de Cigoigni, Peron, Guion, Andreu de Chanceas, Gion de Cigoigni, Gistray de Martigni et ses freres, Phelippe, Marc et ses freres, Gefrai son nevo, et tote lor siute, et maintenant empres le reformement de la pais osterons de nostre Regne tos les estranges Chevaliers,

Chevaliers, Aubelaftiers, ferjans, soldiers quo chevaux et o armes vindrent al nuifement del Regne.

Se alguns est deffailiz o elloigniez par nos, sens real * jugement de ses pers, de * Leal, ut terres, de chastels, de franchises, o de sa dretture maintenant li rendrons, et le ^{infra.} plaiz en commencera di co, adonc en fait fait par jugement des xxv. Barons, dont len parole de soz en la seurte de la pais.

De totes iteles choses dont alguns fu deffailiz o elloigniez senz leal jugement de ses Pers par le Rei Henri nostre pere, o par le Rei Richart nostre frere, que avons en nostre main, o altre tinent cui il nos covient garantir, aurons respit jusqu'a commun terme des croizies, fors que celes choses dont plaiz fu comenciez o enqueste faite par nostre comandement devant que nos prissions la Croiz. Et se nos repairons del pelerinage o par aventure remanons del pelerinage maintenant en frons pleine dreiture. Cest meimes respit aurons et en ceste maniere de dreiture faire des forez defaforester, o que remaignent forez que li Reis Henri nostre pere, o li Reis Richart nostre frere aforesterent, et des gardes des terres qui sunt daltrui fie; que nous avons eues jusques icy par achaisson de fie que alguns teneit de nos par servise de Chevalier, et des Abbeies qui furent fondees en altrui fie que el nostre, esquels li sires del fie dit quila droiture, et quant nous seron repairie de nostre pelerinage, o se no remanons, nous enfrons maintenant pleine droiture a cels qui sen plaindront.

Nuls ne soit pris ne emprisonnez pour apel de feme de la mort daltrui, que de sun marri.

Totes les fins et toz les amerciemens qui sont fait vers nos a tort et contre la lei de la terre, soient tot pardone, o len en face par jugement del xxv. Barons dont len parole de soz, o par le jugement de la greignor partie de cels ensemble, o le devant dit Arcevesque Stefne de Cantorbe sil i puet estre: & cels quil vodra apeler od sei, et sil ni pora estre neien meins ne voist li affaires avant senz lui en tel maniere que se alguns o aucun des devant diz xxv. Barons, seront en tel querele soient oste de cest jugement, et altre esleu et jure soient mis a co faire en lieu de cels par le remanant des devant diz xxv. Barons.

Se nous avons deffailiz et elloigniez les Walais de terre et de franchises, o daltres choses senz leal jugement de lor Pers en Engleterre, o en Wales, maintenant lor soient rendues, et se plaiz en sera comenciez selor en fait fait en la Marche par jugement de lor Peres des tenemenz d' Engleterre solonc la lei d' Engleterre, des tenemenz de Wales solonc la lei de Wales, des tenemenz de la Marche solonc de lai de la Marche, et ce meismes facent li Walais a nous et as noz.

De totes celes choses dont alguns des Walaix fu deffailiz, o elloignie senz leal jugement de ses Pers par le Rei Henry nostre pere, o par le Rei Richart nostre frere, que nous avons en nostre main, o autre tinent cui il nos covient garantir, aurons respit jusqu'al commun terme des Croizies, fors de celes choses dont plaist fu comenciez o enqueste faite par nostre commandement devant que nous prissions la Croiz, & quant nous serons repairiez o se par aventure remanons de nostre pelerinage maintenant lor enfrons pleine dreiture solonc les lez de Wales, et les devant dites parties.

Nous rendrons le fil Lewelin maintenant et toz les hostages de Wales, et les chartres que l'en nous livra en seurte de pais.

Nous ferons a Alisandre le Rei d' Escoce de ses setors et de ses hostages rendre, et de ses franchises, et de la dretture solonc la forme que nous frons a nos autres Barons d' Engleterre, se autrement ne doit estre par les chartres que nous avons de son pere Willaume, qui fu jadis Reis d' Escoce, et co sera fait par jugement de ses Pers en nostre Cort.

Totes ces costumes devant dites et les franchises que nous avons otriees a tenir en nostre Regne quant a nous appartient envers les nos, tuit cil de nostre Regne, et Clerc et lai devent garder quant a eus appartient envers les lor.

Et car nous avons otriees totes les choses devant dites por Deu, et por amandement de nostre Regne, et por mielz plaifier la descorde qui es comenciee entre nous et nos Barons; nous voelliant que ces choses soient fermes et estables a tozjorz, faisons et otrions a nos Barons la seurte de soz escrete; co est que li Baron ellisent xxv. Barons del Regne telz quil vodront, qui dient de tot lor poer garder et tenir, et faire garder la pais et les franchises que nous avons otriees et confermees par ceste nostre presente Chartre, eissi co est a saver que se nous, o nostre Justise, o nostre Bailli, o aucuns de nos ministres mesfaisons en aucune choses vers aucun, o trespassions en aucun point de la pais, o de la seurte, et nostre mesfais sera mostrez

a quatre Barons del devant dit xxv. cil quatre Baron viegnent a nos, o a nostre
 Justise, se nos fumes fors del Regne, & nos monstrent nostre trespaslement, & re-
 quierent que nos faciens amender cel trespaslement senz proloignement & se nos
 namendions le trespaslement, o se nous fumes fors del regne nostre Justise ne la-
 mendra devant xl. jors empres co que il sera mostre a nos, o a nostre Justise se nous
 fumes fors de la terre, adonc li devant dit quatre reportent cele cause al autres de
 celz xxv. Barons, & adonc cil xxv. Baron a la commune de tote Engleterre nos
 destreindront & greveront en totes li manieres que il porront. Co est par prendre
 chastelz & terres & possessions, & en queles autres maniers quil poront, jusqu'il
 soit amende solonc lor jugement, sauve nostre personne & de nostre Reine, & de
 nos enfans, & quant il sera amende il atendront a nos, eissi come devant. Et qui
 vodra de la terre jurt que a totes les devant dites choses parsvir, il obeira al
 comandement des devant diz xxv. Barons, & quil nous grevera ensemble oels a
 son poer, & nous donons comunement & franchement congie de jurer a chascun qui
 jurer vodra, & ja ne le defendrons a neis un, & toz cels de la terre qui de lor
 von gre voldront jurer as xxv. Barons, de destreindre & de grever nos, nos les
 frons jurer oels par nostre comandement, si com devant est dit.

Et se alcuns des xxv. Barons morra, o partira de la terre, o sera destorbez en
 aucune maniere quil ne puist les choses qui sunt devant dites poursvir, cil qui se-
 ront remes des devant dit xxv. Barons, eslisent un autre en lieu de celui solonc lor
 esgart, que jurera en tel maniere com li autre ont fait.

Et en totes les choses que li xxv. Baron devient poursvir se paraventure cil xxv.
 seront present, & descorderont entre els d'aucune chose, o aucun de cels qui se-
 ront somons ne vodront, o ne pourront estre present, soit ferm & certain co que
 la greignor partie de cels qui seront present porverra, o recevra ensement com se
 tuit i aveient consenti.

Et li devant dit xxv. Baron juerent que totes les choses qui sunt devant dites,
 quil garderont feelement, & feront garder de tot lor poer.

Et nos ne porchacerons dalcun par nos, ne par altrui rien pour quei alcuns de ces
 otreiemenz o de cestes franchises soit rapelez o amenuiez, & se aucune tel chose sera
 pourchacie soit cassée, & veine, & ja nen userons par nos ne par altrui.

Et totes males volentes, desdeigz, rancors, qui sont nees entre nos & nos ho-
 mes clers & lais, deske la descorde, comanca, avons plainement relaissies & par-
 donées a toz, & estre co toz les trespaslemens qui sunt fait par achaisson di ceste
 descorde des la Pasche en la sezain de nostre Regne jusqu'al reformement de la pais,
 avom plainement relaissie a toz clers, & a lais & quant a nos aportient lor avon
 plainement pardone & otrie di co lor avon fait faire lettres de tesmoin overtes de
 Seignor Stefne l' Arceveske de Cantorbire, de Seignor Henri l' Arceveske de Di-
 veline, & des devant diz Evesques, & de maistre Pandolf sor ceste seurte & ces
 otreiemenz, por la que chose nos volons & comandons fermement que l' Eglise d'
 Angleterre soit franche, & que li home en nostre Regne aient & tiegnent totes les
 devant dites franchises, & les deitures, & les otreiemenz bien & en pais franche-
 ment & quittement, plainement & entierement a els, & lor heirs en totes choses,
 & en toz leus, a tozjorz si com devant est dit. Et si fu jure de nostre part, & de
 la part des Barons que totes choses qui desus sunt escrites, seront gardées a bone
 fei sanz malengin. Tesmoig en sont cil qui sunt devant dit, & mult altre.

Ceste chartre fu donée el pre est appelez Roveninkmede entre Windesores &
 Stanes, le quinzain jor de juig l'an de nostre Regne dis & sept ans.

1215.

Joan par la grace de Deu Reis d' Engleterre as Visconte de Suthantefire, & a
 dosce esleuz en tel Conte a enquerre & oster les malveises costumes des Viscontes
 & de lor ministres des fores & des forestiers, & des Warenes, & des Warren-
 niers & des Riviers, & de lor gardes saluz. Nos vos mandons que senz delai saisi-
 ez en nostre main les terres, & les tenemenz, & les chatels de toz celz del Conte
 de Suthantefire qui ne vodront jurer as xxv. Barons solonc la forme qui est es-
 critte en nostre chartre des franchises, o a celz quil auront a co atornez ; & s'il
 ne volent jurer maintenant empres quinze jorz acompliz, puisque lor terres & lor
 tenement, & lor chatel seront seisi en nostre main : faites vendre toz lor chatelz,
 & les deniers qui en seront pris gardez sauvement a metre en laie de la sainte terre
 de Jerusalem ; & lor terres & lor tenemenz tenez en nostre main jusqu'il aient ju-
 re, & co fu pourveu par le jugement l' Arceveske Stefne de Cantorbire & des
 Barons de nostre Regne. Et en tesmoig de ceste chose nos enveons cestes nos let-
 tres overtes. Tesmoig mei meisme. A Odibaam le vint & septain jor de juig,
 lan de nostre Regne dis & septain.

The ARTICLES upon which the Great Charter of King JOHN was fram'd: Taken out of a Manuscript of the Archbishop of Canterbury, Fol. 14. The Original whereof, with the Great Seal annex'd, is extant in the hands of Dr. Gilbert Burnet, now Bishop of Salisbury.

These are the Particulars which the Barons demand, and the King grants, sign'd with King John's Seal.

Heirs of full Age shall have their Inheritance after the decease of their Ancestors, paying the antient Relief to be exprest in the Charter.

Heirs within Age, and that have been in Ward, shall have their Inheritance, when they come at Age, without paying Relief or making Fine.

The Guardian of an Heir's Land shall take the reasonable Issues, Customs and Services, without destruction or waste of his Men or Goods. And if such Guardian make destruction and waste, he shall lose the Wardship, and the Guardian shall keep in repair the Houses, Parks, Ponds, Pools, Mills and other Appurtenances to the Estate out of the Profits of the Land: And shall take care that the Heirs be married without disparagement, and by the Advice of their near Kindred.

That a Widow shall give nothing for her Dower or Marriage after the death of her Husband, but shall be suffer'd to dwell in her Husband's House ninety days after his death; within which time her Dower shall be assign'd her, and she shall immediately have her Marriage and her Inheritance. The King nor his Bailiff shall not seize any Land for debt, if the Debtor's Goods be sufficient; nor shall the Debtor's Sureties be distrain'd upon, when the Debtor himself is able to pay the Debt. But if the Debtor fail of payment, the Sureties, if they will, may have the Debtor's Lands till the Debt be fully satisfy'd, unless the principal Debtor can shew that he is quit against his Sureties.

The King shall not allow any Baron to take Aid of his free Tenants, but for the Redemption of his Person, for the making his eldest Son a Knight, and towards the marriage of his eldest Daughter once, and hereunto he shall have but a reasonable Aid.

That none shall do more Service for a Knights Fee, than is due for the same. That Common Pleas shall not follow the King's Court, but shall be holden in some certain Place: And that Recognitions be taken in their proper Counties, and after this manner, viz. That the King shall send two Justices four times a Year, who together with four Knights of the same Shire, chosen by the Shire, shall take *Affizes* of *Novel Disseisin*, *Mordancester*, and *Darrein presentment*; nor shall any be summon'd hereunto, but the Jurors and the two Parties.

That a Freeman shall be amerc'd for a small Fault after the manner of the Fault, and for a great Fault according to the greatness of the Fault, saving his Contenement. A Villain also shall be amerc'd saving his Wainage, and in like manner a Merchant saving his Merchandise, by the Oath of good Men of the Vicinage: That a Clerk shall be amerc'd according to his Lay-fee in manner aforesaid, and not according to his Ecclesiastical Benefice.

That no Town be amerc'd for not making Bridges nor Banks, but where they have been of old Time, and of Right ought to be.

That the Measure of Wine, of Corn, and the Breadth of Cloth, and the like, be rectify'd, and so of Weights.

That *Affizes* of *Novel Disseisin* and *Mordancester* be abbreviated, and so of other *Affizes*.

That no Sheriff shall intermeddle with Pleas of the Crown without the Coroners; and that Counties and Hundreds shall be at the antient Farms without any Encrease, except the King's own Demesne Mannors.

If any Tenant of the King die, the Sheriff, or other the King's Bayliff, may seize and enrol his Goods and Chattels by the view of lawful Men; but yet so

as that nothing thereof be taken away, till it be fully known whether he owe any clear Debt to the King; and then the King's Debt shall be paid, and the Residue shall remain to the Executors to perform the Testament of the Dead. And if nothing be owing to the King, all the Goods shall go to the use of the Dead.

If any Freeman die Intestate, his Goods shall be distributed by his nearest Kindred and Friends, and by the view of the Church.

Widows shall not be distrain'd to marry, if they are minded to live unmarried, provided they find Sureties that they will not marry without the King's Assent, if they hold of the King, or without the Consent of their Lords of whom they hold.

No Constable or other Bayliff shall take any Man's Corn or other Chattels, but he shall forthwith pay for the same, unless he may have respite by Consent of the Seller.

That no Constable shall distrain any Knight to give Mony for the keeping of his Castle, if he himself will do it in his own proper Person, or by another sufficient Man, if he may not do it himself for a reasonable Cause. And if the King lead him in his Army, he shall be discharg'd of Castleward for the Time.

No Sheriff or Bayliff of the King, nor any other Person, shall take the Horses or Carts of any Freeman to make Carriage, without his leave.

The King, nor his Bayliffs, shall not take any Man's Wood for Castles or other Occasions, but by License of him whose the Wood is.

That the King do not hold the Lands of them that be convicted of Felony longer than a Year and a Day; after which they shall be deliver'd to the Lord of the Fee.

That all Wears from henceforth be utterly put down in *Thames* and *Medway*, and throughout all *England*.

That the Writ call'd *Precipe* be not from henceforth granted to any Person of any Freehold, whereby a Freeman may lose his Court.

If any be disseiz'd or delay'd by the King, without Judgment, of Lands, Liberties, or other his Right, he shall forthwith have Restitution; and if any Dispute arise upon it, it shall be determin'd by the Judgment of the Five and twenty Barons. And such as have been disseiz'd by the King's Father, or his Brother, shall have Right immediately by the Judgment of their Peers in the King's Court. And if the King must have the Term of others that had taken upon them the Cross for the Holy Land, the Archbishop and Bishops shall give Judgment therein, at a certain Day to be prefix'd, without Appeal.

That nothing be given for a Writ of Inquisition of Life or Member, but that it be freely granted without Price, and be not deny'd.

If any hold of the King by Fee-farm, by Soccage or Burgage, and of any other by Knights-Service, the King shall not have the Custody of the Heir, nor of his Lands that are holden of the Fee of another, by reason of such Burgage, Soccage, or Fee-farm; nor ought the King to have the custody of such Burgage, Soccage, or Fee-farm: and no Freeman shall lose his Degree of Knighthood by reason of petty Serjeanties, as when a Man holds Lands, rendring therefore a Knife, an Arrow, or the like.

No Bayliff shall put any Man to his Law upon his own bare saying, without faithful Witnesses.

That the Body of a Freeman be not taken, nor imprison'd, nor that he be disseiz'd, nor out-law'd, nor exil'd, nor any way destroy'd.

Nor that the King pass upon him, or imprison him by force, but only by the Judgment of his Peers, or by the Law of the Land.

That Right be not sold, nor delay'd, nor deny'd.

That Merchants have liberty to go and come safely to buy and sell, without any manner of evil Tolls, by the old and lawful Customs.

That no Escuage or Aid be laid upon the Kingdom, but by the Common-Council of the Kingdom; unless it be to redeem the King's Person, or to make his eldest Son a Knight, or to marry his eldest Daughter once; and for these a reasonable Aid shall be given. That it be in like manner with respect to Tallages and Aids from the City of *London*, and other Cities that have Privileges therein: And that the City of *London* may fully enjoy her antient Liberties and free Customs, as well by Water as by Land.

That it shall be lawful for any Man to go out of the Kingdom, and to return, saving his Allegiance to the King, unless it be in time of War for a short time, for the common Profit of the Realm.

If

If any borrow Mony of a Jew, be it more or less, and die before the Debt be paid, no Interest shall be paid for the same so long as the Heir is under Age of whomsoever he hold. And if the Debt become due to the King, the King shall take no more than what is contain'd in the Charter.

If any Man die and owe Mony to the Jews, his Wife shall have her Dower; and if he left Children, Necessaries shall be provided them according to the quantity of the Freehold, and the Residue shall go to pay off the Debt, saving the Services due to the Lords. The like shall be observ'd in case of other Debts; and when the Heir comes of Age, his Guardian shall restore him his Land as well stockt as he could reasonably afford out of the Profits of the Land, coming in by the Plough and the Cart.

If any Man hold of any Escheat, as of the Honour of *Wallingford*, and *Nottingham*, *Bonon*, and *Lancaster*, or of other Escheats, which are in the King's Hand and are Baronies, and die, his Heir shall pay no other Relief, nor perform any other Service than he should have paid and perform'd to the Baron; and that the King shall hold such Escheats as the Barons held them.

That Fines made for Dowers, Marriages, Inheritances and Amercements, wrongfully and contrary to the Law of the Land, be freely remitted, or order'd by the Judgment of the Five and twenty Barons, or of the major part of them, together with the Archbishop and such as he shall call to him; provided that if one or more of the Five and twenty have themselves any like Complaint, that then he or they shall be remov'd, and others put in their rooms by the residue of the Five and twenty.

That the Hostages and Deeds be restor'd, which were deliver'd to the King for his Security.

That they that live out of the Forest be not oblig'd to come before the Justices of the Forest by common Summons, unless they be Parties or Pledges: And that the Evil Customs of the Forests and Foresters, Warrens, and Sheriffs, and Ponds, be redress'd by twelve Knights of each County, who shall be chosen by the good Men of the County.

That the King remove wholly from the Bayliffwick, the Kindred and whole Dependence of *Gerard de Aies*, that hereafter they have no Bayliffwick, to wit, *Engeland*, *Andr' Peter' Gigo de Cances*, *Gigo de Cygon*, *Matthew de Martino* and his Brethren, and *Gelfrid* his Nephew, and *Philip de Mark*.

And that the King put away the Foreign Soldiers, Stipendiaries, Slingers, and Troopers, and their Servants, who came with Horses and Arms to the Nufance of the Realm.

That the King make Justiciaries, Constables, Sheriffs and Bayliffs, of Men that know the Law of the Land, and will cause it to be well observ'd.

That Barons who have founded Abbies, for which they have Charters of Kings, or antient Tenures, shall have the Custody of them when they are vacant.

If the King have disseiz'd the *Welshmen*, or esloyn'd them from Lands or Liberties, or of other things in *England* or in *Wales*, let them presently be restor'd to them without Plea: and if they have been disseiz'd or esloyn'd from their *English* Tenements by the King's Father or his Brother, without Judgment of their Peers, the King shall without delay do them Justice, as he does Justice to *Englishmen* of their *English* Tenements according to the Law of *England*, and of *Welsh* Tenements according to the Law of *Wales*, and of Tenements in the *Marches* according to the Law of the *Marches*. In like manner the *Welshmen* shall do to the King and his Subjects.

That the King restore *Lewelin's* Son, and all the *Welsh* Hostages, and the Deeds that were deliver'd to him for security of the Peace.

That the King do Right to the King of *Scotland* concerning restoring of Hostages, and his Liberties and Right, according to the Form of the Agreement with his Barons of *England*, unless it ought to be otherwise by virtue of some Deeds which the King has, by the Judgment of the Archbishop and others whom he shall think fit to call to him.

That all Forests that have been afforested by the King in his own time, be disafforested; and so of Banks, which by the King himself have been put in defence.

All these Customs and Liberties which the King has granted to the Kingdom, to hold and keep for his own part towards his Men, all Clerks and Laymen of the Kingdom shall observe and keep for their parts towards their Men.

This is the Form of the Security for keeping Peace and the Liberties betwixt the King and the Kingdom. The Barons shall chuse Five and twenty Barons of the Realm, whom they will themselves, upon whom it shall be incumbent, that with all their might they observe and keep, and cause to be observ'd and kept, the Peace and Liberties which the King has granted to them, and confirm'd by his Charter; to wit, "That if the King, or his Justices, or Bayliffs, or any of his Ministers, offend any Person contrary to any of the said Articles, or transgress any Article of this Peace and Security, and that such Offence be made known to Four of the said Five and twenty Barons; those four Barons shall go to the King, or to his Justiciary, if the King be out of the Realm, declaring to him that such an Abuse is committed, and shall desire him to cause it speedily to be redress'd. And if the King, or (if he be out of the Realm) his Justiciary do not redress it, those four Barons shall within a reasonable time to be limited in the Charter, refer the Matter to the Residue of the Five and twenty Barons. And those Five and twenty, with the Commonalty of all the Land, shall distress the King all the ways they can, to wit, by seizing his Castles, his Lands and Possessions, and by what other means they can, till it be redrest according to their good liking, saving the Person of our Lord the King, and of the Queen and of their Children. And when it is redrest, they shall be subject to the King as before. And whoever will may swear to put these things in execution, viz. To obey the Commands of the said Five and twenty Barons, and to distress the King to the utmost of his Power with them. And the King shall give publick and free Liberty for any Man to swear that will, and shall never prohibit any to swear. And all those of the Nation, who will voluntarily of their own accord swear to the Five and twenty Barons to distress the King with them, the King himself shall issue his Precept, commanding them to swear as aforesaid.

Item, If any of the said Five and twenty Barons die, or go out of the Realm, or be any other way hindred from performing these things, the Residue of the Five and twenty shall chuse another, whom they think best, in his place, who shall be sworn as the rest are. And in all Matters referred to those Five and twenty Barons, if they happen to be all present, and differ amongst themselves; or if any of them being thereto appointed, will not or cannot come, what the major part of them shall agree upon and enjoin shall be valid, as if all the Five and twenty had agreed in it. And the said Five and twenty shall swear that they will faithfully observe and keep the Articles aforesaid, and with all their might cause them to be observ'd. Moreover the King shall give them the Securities of the Archbishop and Bishops, and Master *Pandulphus*, that he will not obtain any thing from the Pope, whereby any of these Articles of Agreement may be revok'd or diminish'd. And if any such thing be obtain'd, that it be reputed void and of none effect, nor shall ever be made use of.

THE

That the King restore *Cometia's* son, and all the *Wells* Hoffages, and the *Deeds* that were deliver'd to him for security of the Peace.

That the King do Right to the King of Scotland concerning restoring of *Ho-*
rager and his Liberties and Right, according to the Form of the Agreement with
his Barons of Scotland, unless it ought to be otherwise by virtue of some *Deeds*
which the King has, by the Judgment of the Archbishop and others whom he shall
call to him.

That all Forests that have been afforested by the King in his own time, be
disafforested, and so of Banks, which by the King himself have been put in de-

THE GREAT CHARTER OF KING JOHN;

A True Copy, from the Original French.

JOH^N by the Grace of God King of *England*, to the Archbishops, Bishops, Abbots, Earls, Barons, Justices, Foresters, Sheriffs, Prevoists, Ministers, and all his Bayliffs and his Lieges, Greeting. Know ye that we by the Grace of God, and for the saving of our Soul, and the Souls of all our Ancestors, and of our Heirs, and for the Honour of God, and the safety of Holy Church, and for the amendment of our Government, by the Advice of our honour'd Fathers, *Stephen* Archbishop of *Canterbury*, Primate of all *England*, and Cardinal of *Rome*; *Henry* Archbishop of *Dublin*, *William* Bishop of *London*, *Peter* Bishop of *Winchester*, *Jocelin* Bishop of *Bath*, *Hugh* Bishop of *Lincoln*, *Walter* Bishop of *Worcester*, *William* Bishop of *Chester*, *Benedict* Bishop of *Rochester*, and Master *Pandulph* Sub-deacon of our Lord the Apostle, and of our Friend and Brother *Anner* Master of the Order of Knights Templers in *England*; and by the Advice of our Barons, *William* Earl Marshal Earl of *Pembroke*, *William* Earl of *Salisbury*, *William* Earl of *Warren*, *William* Earl of *Arundel*, *Alan* of *Galloway* Constable of *Scotland*, *Warin* Fitz-*Gerard*, *Peter* Fitz-*Herbert*, *Hubert* de *Burgh* Steward of *Poitou*, *Hugh* *Nevill*, *Matthew* Fitz-*Herbert*, *Thomas* *Basset*, *Alan* *Basset*, *Philip* d' *Aubenie*, *Robert* de *Ropelee*, *John* *Marshall*, and *John* Fitz-*Hugh*, and by the Advice of other our Lieges;

Have in the first place granted to God, and confirm'd by this our present Charter, for us and for our Heirs for ever, That the Churches of *England* shall be free, and shall enjoy their Rights and Franchises entirely and fully: And this our Purpose is, that it be observ'd, as may appear by our having granted, of our mere and free Will, that Elections should be free (which is reputed to be a very great and very necessary Privilege of the Churches of *England*) before the difference arose betwixt us and our Barons, and by our having confirm'd the same by our Charter, and by our having procur'd it moreover to be confirm'd by our Lord the Apostle *Innocent* the Third. Which Privilege we will maintain: And our Will is, that the same be faithfully maintain'd by our Heirs for ever.

We have also granted to all the Free-men of our Kingdom, for us and our Heirs for ever, all the Liberties hereafter mention'd, to have and to hold to them and their Heirs of us and our Heirs.

If any of our Earls, our Barons, or others that hold of us in chief by Knight Service, die, and at the time of his Death his Heir be of full age, and Relief be due, he shall have his Inheritance by the antient Relief; to wit, the Heir or Heirs of an Earl, for an entire Earldom, C. Pounds; the Heir or Heirs of a Baron, for an entire Barony, C. Marks; the Heir or Heirs of a Knight, for a whole Knights Fee, C. Shillings at most: and where less is due, less shall be paid, according to the antient Customs of the several Tenures.

If the Heirs of any such be within Age and in Ward, they shall have their Inheritance when they come of Age without Relief and without Fine.

The Guardians of the Land of such Heirs being within Age, shall take nothing out of the Land of the Heirs, but only the reasonable Profits, reasonable Customs, and reasonable Services, and that without making destruction or wast of Men or Goods.

And

And if we shall have committed the Custody of the Land of any such Heir, to a Sheriff or any other, who is to account to us for the Profits of the Land, and that such Committee make destruction or wast, we will take of him amends, and the Land shall be committed to two lawful and good Men of that Fee, who shall account for the Profits to us, or to such as we shall appoint.

And if we shall give or sell to any Person, the Custody of the Lands of any such Heir, and such Donee or Vendee make destruction or wast, he shall lose the Custody, and it shall be committed to two Lawful, Sage, and Good Men, who shall account to us for the same, as aforesaid.

And the Guardian, whilst he has Custody of the Heir's Land, shall maintain the Houses, Ponds, Parks, Pools, Mills, and other Appurtenances to the Land, out of the Profits of the Land it self; and shall restore to the Heir, when he shall be of full Age, his Land well stockt, with Ploughs, Barns, and the like, as it was when he reciev'd it, and as the Profits will reasonably afford.

Heirs shall be marry'd without disparagement; insomuch that before the Marriage be contracted, the Persons that are next of Kin to the Heir, shall be made acquainted with it.

A Widow after the Death of her Husband, shall presently and without oppression, have her Marriage and her Inheritance; nor shall give any thing for her Marriage, nor for her Dower, nor for her Inheritance, which she and her Husband were seiz'd of the day of her Husband's Death: and she shall remain in her Husband's House forty Days after his Death; within which time her Dower shall be assign'd her.

No Widow shall be compell'd to marry if she be desirous to live single, provided she give Security not to marry without our leave, if she hold of us, or without the Lord's leave of whom she holds, if she hold of any other.

We nor our Bayliffs, will not seize the Lands or Rents of a Debtor for any Debt, so long as his Goods are sufficient to pay the Debt: Nor shall the Pledges be distrain'd upon, whilst the Principal Debtor is able to pay the Debt. But if the Principal Debtor have not wherewith to pay the Debt, the Pledges shall answer for it: And if they will, they shall have the Lands and Rents of the Debtor, till they have receiv'd the Debt which they pay'd for him, if the Principal Debtor cannot show that he is quit against his Pledges.

If any Persons have borrow'd Mony of Jews, more or less, and die before they have paid the Debt, the Debt shall not grow whilst the Heir is under Age; and if such Debt become due to us, we will take no more than the Goods express in Deed.

And if any die and owe a Debt to the Jews, his Wife shall have her Dower, and shall be charg'd with no part of the Debt; and if the Children of the deceas'd Person be within Age, their reasonable Estovers shall be provided them, according to the Value of the Estate which their Ancestor had; and the Debt shall be paid out of the Residue, saving the Services due to the Lord. In like manner shall it be done in Cases of Debts owing to other Persons that are not Jews.

We will impose no Escuage nor Aids within our Realm, but by the Common Council of our Realm, except for our Ransom, and for the making our eldest Son a Knight, and for marrying our eldest Daughter once: And for these purposes there shall but a reasonable Aid be requir'd.

In like manner shall it be done within the City of London: And moreover the City of London shall have all her antient Customs and Liberties, by Land and Water.

We Will moreover and Grant, that all other Cities and Boroughs, and Towns, and Ports, have in all respects their Liberties and free Customs.

And as for coming to the Common Council of the Kingdom, and for assessing Aids (except in the three cases aforesaid) and as for the assessing of Escuage, we will cause to be summon'd the Archbishops, Bishops, Abbots, Earls, and the Greater Barons, each in particular by our Letters; and moreover we will cause to be summon'd in general, by our Sheriffs and Bayliffs, all that hold of us in Chief, at a certain Day, to wit, Forty days after at least, and at a certain Place; and in our said Letters we will express the cause of the Summons. And when Summons shall be so made, Business shall go on at the Day assign'd, by the Advice of such as are present, tho all that are summon'd do not appear.

We will not allow for the future, that any take Aid of his free men, but only to ransom his Person, to make his eldest Son a Knight, and to marry his eldest Daughter once; and for these purposes there shall but a reasonable Aid be given.

None shall be distrain'd to do greater Service for a Knight's Fee, or for any other Frank-Tenement than what is due by his Tenure.

Common Pleas shall not follow our Court, but shall be held in a certain place.

Recognizances of Novel Disseisin, Mordancester, and Darrein Presentment, shall be taken no where but in their proper Counties, and in this manner: We, or our Chief Justice (if our Selves be out of the Realm) will send two Justices through every County four times a Year; who with four Knights of every County, to be chosen by the County, shall take the said Assizes in the County, at a Day when the County Court is held, and in a certain place: and if the said Assizes cannot be taken upon that day, so many Knights and free Tenants of them that were present in the County Court that day, shall stay, as may give a good Judgment, according as the Concern may be greater or less.

A Freeman shall not be amerced for a little Offence, but according to the manner of his Offence, and for a great Offence he shall be amerced according to the greatness of his Offence, saving his Contenement; and so a Merchant saving his Merchandize; and a Villain in like manner shall be amerced saving his Wainage, if he fall into our Mercy: and none of the said Amercements shall be affected, but by Oaths of good and lawful Men of the Vicinage.

An Earl and a Baron shall not be amerced but by their Peers, and according to the manner of their Offence.

No Clerk shall be amerced but according to his Lay-fee, and in like manner as others aforesaid, and not according to the quantity of his Church Living.

No Ville nor any Man shall be distrain'd to make Bridges over Rivers, but where they antiently have, and of Right ought to make them.

No Sheriffs, Constables, Coroners, nor other our Bayliffs shall hold the Pleas of our Crown.

All Counties, Hundreds, Wapentakes and Tythings shall be at the antient Farms without being rais'd, except our own demesne Mannors.

If any that holds of us a Lay-fee die, and our Sheriffs, or other our Bayliffs, show our Letters Patents of Summons for a Debt which the Deceased owed to us, our Sheriff or Bayliff may well attach and inventory the Goods of the Dead, which shall be found upon his Lay-fee, to the value of the Debt which the Deceased ow'd to us, by the view of lawful Men, yet so as nothing be remov'd till such time as the Debt which shall be found to be due to us be paid; and the Residue shall go to the Executors to perform the Testament of the Dead: and if nothing be owing to us, all his Goods shall go to the use of the Dead, saving to his Wife and Children their reasonable Parts.

If any Freeman die intestate, his Goods shall be divided by the hands of his near Kindred and Friends by the view of Holy Church, saving to every one their Debts which the Dead owed them.

None of our Constables, nor other our Bayliffs, shall take the Corn, nor other the Goods of any Person, without paying for the same presently, unless he have time given him by consent of the Vendor.

Our Constables shall distrain no Man, who holds by Knight-Service, to give Money for Castle-guard, if he has perform'd it himself in proper Person, or by another good Man, if he could not perform it himself for some reasonable Cause: And if we lead him, or send him into the Army, he shall be discharg'd of Castle-guard for so long time as he shall be with us in the Army.

Our Sheriffs, our Bayliffs, or other, shall not take the Horses nor Carts of any Freeman to make Carriage, but by leave of such Freeman.

Neither our selves nor our Bayliffs shall take another Man's Wood for our Castles, or other Occasions, but by his leave whose Wood it is.

We will hold the Lands of such as shall be convict of Felony but a year and a day, and then we will restore them to the Lords of the Fees.

All Wears shall from this time forward be wholly taken away in *Thames* and *Medway*, and throughout all *England*, except upon the Sea-coast.

The Writ call'd *Precipe* henceforth shall be made to none out of any Tenement, whereby a Freeman may lose his Court.

One Measure of Wine shall be used throughout our Kingdom, and one Measure of Ale, and one Measure of Corn, to wit, the *London Quart*. And there shall be one breadth of dyed Cloth, Ruffets, and Haubergets, to wit, two Ells within the Lists: And concerning Weights, it shall be in like manner as of Measures.

Nothing shall be given or taken henceforth for a Writ of Inquisition of Life or Member, but it shall be granted freely and shall not be deny'd.

If any hold of us by Fee-farm, or by Soccage, and hold likewise Land of others by Knight-Service, we will not have the Custody of the Heir, nor of the Land which is of the Fee of another, by reason of such Fee-farm, Soccage or Burgage, unless such Fee-farm owe Knight-Service.

We will not have the Wardship of the Heir, nor of the Land of any Person, which he holds of another by Knight-Service, by reason of any Petit Serjeanty by which he holds of us, as by the Service of giving us Arrows, Knives, or such like.

No Bayliff for the time to come shall put any Man to his Law upon his bare word, without good Witnesses produc'd.

No Freeman shall be taken, nor imprison'd, nor disseiz'd, nor outlaw'd, nor exil'd, nor destroy'd in any manner; nor will we pass upon him, nor condemn him, but by the lawful Judgment of his Peers, or by the Law of the Land.

We will sell to none, we will deny nor delay to none Right and Justice.

All Merchants may with safety and security go out of *England*, and come into *England*, and stay, and pass through *England* by Land and Water, to buy and sell without any evil Tolls, paying the antient and rightful Duties, except in time of War; and then they that are of the Country with whom we are at War, and are found here at the beginning of the War, shall be attach'd, but without Injury to their Bodies or Goods, till it be known to us or to our Chief-Justice, how our Merchants are entreated which are found in our Enemies Country; and if ours be safe there, they shall be safe in our Land.

It shall be lawful for all Men in time to come, to go out of our Kingdom, and to return safely and securely by Land and by Water, saving their Faith due to us, except it be in time of War for some short time for the Profit of the Realm. But out of this Article are excepted Persons in Prison, Persons out-law'd according to the Law of the Land, and Persons of the Country with whom we are at War; concerning Merchants, what is abovesaid shall hold as to them.

If any hold of any Escheat, as of the Honour of *Wallingford*, *Nottingham*, *Roloin*, *Lancaster*, or of other Escheats which are in our hand, and are Baronies, and die, his Heirs shall owe us no other Relief, nor do us any other Service, than was due to the Baron of such Barony when it was in his hand, and we will hold the same in like manner as the Baron held it.

Men that dwell out of the Forest, shall not appear before our Justices of the Forest by common Summons, unless they be in Suit themselves, or Bail for others who are attach'd for the Forest.

We will not make Sheriffs, Justices, nor Bayliffs, but of such as know the Law of the Land, and will keep it.

All that have founded Abbies, whereof they have Charters from Kings of *England*, or antient Tenure, shall have the Custody thereof whilst they are vacant, as they ought to have.

All the Forests that have been Afforested in our time, shall instantly be Disafforested; in like manner be it of Rivers, that in our time and by us have been put in defence.

All evil Customs of Forests and Warrens, and of Foresters and Warrenners, of Sheriffs and their Ministers, of Rivers and of guarding them, shall forthwith be enquir'd of in every County by twelve Knights sworn of the same County, who must be chosen by the good Men of the same County. And within forty days after they have made such Inquisition, the said evil Custom shall be utterly abolish'd by those same Knights, so as never to be reviv'd; provided they be first made known to us, or to our Chief Justice if we be out of the Realm.

We will forthwith restore all the Hostages, and all the Deeds which have been deliver'd to us by the *English*, for surety of the Peace, or of faithful Service.

We will wholly put out of Bayliffwicks the Kindred of *Gerard de Aties*, so that from henceforth they shall not have a Bayliffwick in *England*; and *Engeland de Cygoigni*, *Peron*, *Guyon*, *Andrew de Chanceas*, *Gyon de Cygoigni*, *Geffry de Martigni* and his Brothers, *Philip*, *Mark* and his Brothers, *Geffray* his Nephew and all their Train: And presently after the Peace shall be perform'd, we will put out of the Realm all Knights Foreigners, Slingers, Serjeants and Soldiers, who came with Horse or Arms to the Nufance of the Realm.

If any be disseiz'd or esloyn'd by us, without lawful Judgment of his Peers, of Lands, Chattels, Franchises, or of any Right, we will forthwith restore the same; and if any difference arise upon it, it shall be determin'd by the Judgment of the Five and twenty Barons, of whom mention is made hereafter in the Security for the Peace.

As to all things whereof any have been disseiz'd, or esloyn'd without lawful Judgment of their Peers, by King *Henry* our Father, or by King *Richard* our Brother, which we have in our hands, or which any other has, to whom we are bound to warrant the same, we will have respit to the common Term of them that are crost for the Holy Land, except such things for which Suits are commenc'd, or Enquest taken by our Order before we took upon us the Cross. And if we return from the Pilgrimage, or perhaps forbear going, we will do full Right therein. The same Respit we will have, and the same Right we will do in manner aforesaid, as to the Disafforesting of Forests, or letting them remain Forests, which the Kings, *Henry* our Father, or *Richard* our Brother have Afforested; and as to the Custodies of Lands which are of the Fee of other Persons, which we have held till now by reason of other mens Fees, who held of us by Knights-Service; and of Abbies that are founded in other mens Fees, in which the Lords of the Fees claim a Right: And when we shall be return'd from our Pilgrimage; or if we forbear going, we will immediately do full Right to all that shall complain.

None shall be taken nor imprison'd upon the Appeal of a Woman, for the death of any other than her Husband.

All the Fines and all the Amercements that are impos'd for our use, wrongfully and contrary to the Law of the Land, shall be pardon'd; or else they shall be determin'd by the Judgment of the Five and twenty Barons, of whom hereafter, or by the Judgment of the greater number of them that shall be present, or before *Stephen* Archbishop of *Canterbury*, if he can be there, and those that he shall call to him; and if he cannot be present, Matters shall proceed notwithstanding without him; so always, that if one or more of the said Five and twenty Barons be concern'd in any such Complaint, they shall not give Judgment thereupon, but others chosen and sworn shall be put in their room to act in their stead, by the residue of the said Five and twenty Barons.

If we have disseiz'd or esloyn'd any *Welshmen* of Land, Franchises, or of other things, without lawful Judgment of their Peers, in *England* or in *Wales*, they shall forthwith be restor'd unto them; and if Suits arise thereupon, Right shall be done them in the *Marches* by the Judgment of their Peers; of *English* Tenements according to the Law of *England*, and of Tenements in *Wales* according to the Law of *Wales*; and Tenements in the *Marches* according to the Law of the *Marches*: And in like manner shall the *Welsh* do to us and our Subjects.

As for all such things, whereof any *Welshmen* have been disseiz'd or esloyn'd, without lawful Judgment of their Peers, by King *Henry* our Father, or by King *Richard* our Brother, which we have in our hands, or which any others have, to whom we are bound to warrant the same, we will have respit till the common Term be expir'd of all that crost themselves for the *Holy Land*, those things excepted whereupon Suits were commenc'd, or Enquests taken by our Order before we took upon us the Cross; and when we shall return from our Pilgrimage, or if peradventure we forbear going, we will presently cause full Right to be done therein, according to the Laws of *Wales* and before the said Parties.

We will forthwith restore the Son of *Lewelyn*, and all the Hostages of *Wales*, and the Deeds that have been deliver'd to us for Security of the Peace.

We will deal with *Alexander* King of *Scotland*, as to the restoring him his Suitors and his Hostages, his Franchises and Rights, as we do with our other Barons of *England*, unless it ought to be otherwise by virtue of the Charters which we have of his Father *William* late King of *Scotland*, and this to be by the Judgment of his Peers in our Court.

All these Customs and Franchises aforesaid, which we have granted to be kept in our Kingdom, so far forth as we are concern'd, towards our Men, all Persons of the Kingdom, Clerks and Lay, must observe for their Parts towards their Men.

And whereas we have granted all these things for God's sake, and for the amendment of our Government, and for the better compromising the Discord arisen betwixt us and our Barons: We willing that the same be firmly held and establish'd for ever, do make and grant to our Barons the Security underwritten; to wit, That the Barons shall chuse Five and twenty Barons of the Realm, whom they list, who shall

to their utmost Power keep and hold, and cause to be kept the Peace and Liberties which we have granted and confirm'd by this our present Charter; insomuch that if we, or our Justice, or our Bayliff, or any of our Ministers, act contrary to the same in any thing, against any Persons, or offend against any Article of this Peace and Security, and such our Miscarriage be shown to four Barons of the said Five and twenty, those four Barons shall come to us, or to our Justice, if we be out of the Realm, and shew us our Miscarriage, and require us to amend the same without delay; and if we do not amend it, or if we be out of the Realm, our Justice do not amend it within Forty days after the same is shown to us, or to our Justice if we be out of the Realm, then the said four Barons shall report the same to the residue of the said Five and twenty Barons, and then those Five and twenty Barons, with the Commonalty of all England, may distress us by all the ways they can; to wit, by seizing on our Castles, Lands and Possessions, and by what other means they can, till it be amended, as they shall adjudg; saving our own Person, the Person of our Queen, and the Persons of our Children: And when it is amended, they shall be subject to us as before. And whoever of the Realms will, may swear, that for the Performance of these things he will obey the Commands of the said Five and twenty Barons, and that together with them he will distress us to his Power: And we give publick and free leave to swear to all that will swear, and will never hinder any one: And for all Persons of the Realm, that of their own accord will swear to the said Five and twenty Barons to distress us, we will issue our Precept, commanding them to swear as aforesaid.

And if any of the said Five and twenty Barons die, or go out of the Realm, or be any way hindred from acting as aforesaid, the residue of the said Five and twenty Barons shall chuse another in his room, according to their discretion, who shall swear as the others do.

And as to all things which the said Five and twenty Barons are to do, if peradventure they be not all present, or cannot agree, or in case any of those that are summon'd cannot or will not come, whatever shall be determin'd by the greater number of them that are present, shall be good and valid, as if all had been present.

And the said Five and twenty Barons shall swear that they will faithfully observe all the Matters aforesaid, and cause them to be observ'd to their power.

And we will not obtain of any one for our selves, or for any other, any thing whereby any of these Concessions, or of these Liberties may be revok'd or annihilated; and if any such thing be obtain'd it shall be null and void, nor shall ever be made use of by our selves or any other.

And all Ill-will, Disdain and Rancour, which has been between Us and our Subjects of the Clergy and Laity since the said Discord began, we do fully release and pardon to them all. And moreover all Trespasses that have been committed by occasion of the said Discord since *Easter*, in the sixteenth Year of our Reign, to the restoring of the Peace, we have fully releas'd to all Clerks and Laymen, and so far as in us lies we have fully pardon'd them: And further we have caus'd Letters Patents to be made to them in testimony hereof, witnessed by *Stephen* Archbishop of *Canterbury*, *Henry* Archbishop of *Dublin*, and by the aforesaid Bishops, and by *Mr. Pandulphus* upon this Security and these Concessions: Whereby we will and strictly command, that the Church of *England* be free, and enjoy all the said Liberties, and Rights, and Grants, well and in Peace, freely and quietly, fully and entirely to them and their Heirs in all things, in all places, and for ever as aforesaid. And we and our Barons have sworn that all things above written, shall be kept on our parts in good Faith without ill Design. The Witnesses are the Persons above nam'd and many others.

This Charter was given at the Meadow call'd *Runnymede*, betwixt *Windsor* and *Stanes*, the 15th day of *June*, in the 17th Year of our Reign.

1215. *JOHN* by the Grace of God King of *England*, to the Sheriff of *Hampshire*, and to the Twelve that are chosen in that County, to enquire of and put away the evil Customs of Sheriffs, and of their Ministers, of Forests and Foresters, of Warrens and Warreners, of Rivers, and of guarding them, Greeting. We command you, that without delay, you seize into our hand the Lands and Tenements, and the Goods of all those of the County of *Southampton*, that will not swear to the said Five and twenty Barons, according to the Form exprest in our Charter of Liberties, or to such as they shall have thereunto appointed; and if they will not swear presently, at the end of fifteen days after their Lands, and Tenements, and Chattels

Chattels are seiz'd into our Hands, that ye sell all their Goods, and keep safely the Mony that ye shall receive for the same, to be employ'd for the Relief of the Holy Land of *Jerusalem*; and that ye keep their Lands and Tenements in our Hands till they have sworn, or that *Stephen* Archbishop of *Canterbury*, and the Barons of our Kingdom have given Judgment thereupon. In witness whereof we direct unto you these our Letters Patents. Witness our Self: At *Odibaam* the Seven and twentieth Day of *June*, in the Seventeenth Year of our Reign.

A New History of the Succession of the Crown of England.

And more particularly, from the Time of King EGBERT, till King HENRY the Eighth.

Collected generally from those Historians who wrote of their own Times, and who consequently were the best Witnesses and Relaters of the Actions done therein.

The P R E F A C E.

AS the Succession of our Kings to the Crown of this Nation is a business of great Importance to every individual Person therein; and as it hath of late been the Subject of the general discourse after so great a Revolution; so, I hope, it will not seem strange, that among others, it should excite a Curiosity in me to know how it hath been manag'd (at least) since the *Saxon* Heptarchy, or Sevenfold Kingdom, was join'd into one. For, as the Liberties and Properties (and often the Lives) of every Subject are in some sort concern'd therein, and their Happiness and Misery in this World interwoven therewith: so the most thinking part of them are somewhat solicitous to know from what original the Felicity which attends a Nation by the Government of a good and gracious Prince, is deriv'd to them, and to understand from what Fountain it flows. Pursuant to this design, I have at leisure consulted all the *Latin* Historians of our Nation, both antient and modern, that I could procure, and have laid this down as a Maxim, That the Historian who treated either of his own time, or that which immediately preceded, however bias'd he might be to this or that Faction (which notwithstanding may be discern'd with almost half an Eye, by some particular circumstances) as he had the best Opportunity to know the Truth in the change of Princes, so ought he to have the preeminence in point of Belief. Wherefore I have in the ensuing Disquisition rather adher'd to this Narrative of the Matter (unless the contrary Reason was so clear as not to be deny'd) than to Persons who succeeded him in time, and who are as obnoxious to the same Prejudices of espousing the Interest of (and consequently of favouring it in) particular Parties, as those who went before them; as they are on the other side more liable to mistake for want of due Information. Albeit I have seldom fail'd, where there are several contemporary Historians, to give their several Votes upon the matter in debate, that thereby (if always possible) the Truth, as in a Glass, may be discern'd from the Artifices of Falshood. And this is the reason why I may in this *History of the Succession* perhaps differ from others who have treated on this Subject before, because upon the certain Knowledge of an Historian's Age, I have made him the Arbiter as to Matters of Fact done in or near

near his own time; while others may have consulted only those Historians (how distant soever from the time they speak of) which do side with their own Hypothesis, of what extreme soever; which I avoid to mention particularly, thereby to decline all invidious Comparisons with my Contemporaries, and consequently of coming within the Verge of Controversy; since 'tis Truth, not Victory, which I seek for.

I foresee I shall meet with an Objection, which will confront me in the very entrance of this Work, viz. That since the Reign of King *Egbert*, till that of *William the Conqueror*, we have no Historians (a) left us worthy of attention, but *Affer Menevensis*, who treats of the Life of King *Alfred*, (and to whom the last Will and Testament of that famous King is often adjoin'd) and *Ethelward*, who liv'd in the time of King *Edgar*, and that therefore I cannot altogether make good this Hypothesis. To this I reply, That in a Case of necessity there is no recourse left, but to that of Obedience. Nor can I be any more censur'd for using some Authors, who write of Actions done long before their time, when no other can be produc'd, than a man ought to be blam'd for not walking straight, when he is either decrepit or lame.

Stile
excus'd.

If it be further objected, that the Stile is unpolish'd, and not uniform, it may be answer'd, That among so many Quotations from Authors of different Ages and Stiles, it was impossible to do otherwise, unless I would have written a Romance and not an History. But before I dismiss the Reader to the Book it self, I am oblig'd to take notice of another Objection which may be rais'd against me, viz. That I have been too conversant in History, for one that should make Philology my sole Study.

If this Censure were so valid as to merit a Reply, I might with others of the same Profession plead the Liberty that all men have of searching into the Mysteries of other Arts, as well as those which they publicly practise. So that to confine any man to a particular Study, without having the Liberty to divert or instruct himself in others, is no less than an Invasion of the great Charter of Nature, and an infringing of those Privileges, which are more unalterable than the old Laws of the *Median* and *Persian* Empire; and in this particular case would (according to the trite Proverb) place the *Grammatician* in the next rank to a Fool.

Not to dwell too long upon so trifling an Objection, History in a *Grammatician* was so far from being decry'd of old, that the Prince of (b) Latin Orators, *Cicero*, makes it one of the four Qualifications necessary for a compleat *Grammatician*, as (c) *Quintilian* makes it the Foundation of a *Rhetorician*.

And there have not been wanting several Schoolmasters, who (like Commentators upon *Cicero's* Text) have excel'd in the writing of History. Thus not to mention many among the *Greeks*, we have *Herodian* of *Alexandria*, who (d) wrote the Lives of the Roman Emperors from *Commodus* to *Gordian*, and whom (e) the learned (f) *Constantinopolitan* Patriarch *Photius* judges inferior to few in all the Vertues of an Historian. And among the *Latins*, *Suetonius Tranquillus*, (g) who by

(a) Hence doth William of Malmesbury look upon himself as the most antient of our Latin Historians after Bede, Elward only excepted. W. Malmesb. in Proleg. 1. de gestis regum Anglorum, pag. 7. — post eum (sc. Bedam) non facile, ut arbitror, reperies, qui historiis illius gentis (i. e. Anglorum) Latinâ oratione texendis animum dederint. Nam de Elwardo, &c. Id. ibid. p. 173. — Privatum ipse mihi sub ope Christi gratulor, quod continuam Anglorum historiam ordinaverim post Bedam vel solus vel primus.

(b) Cicero de Oratore lib. 1. Parisiis 1564. In Grammaticis, poetarum pertractatio, historiarum cognitio, verborum interpretatio, pronunciandi quidem sonus — From which Strebaeus (his Commentator) concludes, — Alteram, quæ in Historiarum cognitione sit, unde Grammatici sicut à poetis & oratoribus, verborum significat iones, inflexiones, Syntaximque desumunt. Jac. Lodoic. Strebaeus in Ciceronem 1. 1. de Orat. fol. 69, b. Parisiis 1564.

(c) Quintilian. Instit. Orat. l. 2. c. 4. — apud Rhetorem initium sit historia. Basil. 1568.

(d) Lycosthenes in Elencho Scriptorum variorum p. 412. Herodianus Alexandrinus Grammaticus scripsit vitas Imperatorum à Commodo ad Gordianum. Basil. 1551.

(e) Photius in Bibliothecâ sive Myrobibl. Rothomagi 1653. Cod. 99. p. 275. — καὶ ἀπλῶς ἐν πάσαις κατὰ τὴν ἱστορίαν ἀρεταῖς ἔπλετο. This Herodian is quoted by the *Grammatician* Priscian in his Preface to his Grammar, apud Grammat. Latin. Auctor. antiq. p. 534. Hanoviae 1605.

(f) Vide Pauli Colomesii de Photii scriptis dissertat. in calce Chartophylac. Eccles. Guilielmi Cave, p. 27. Londini 1685.

(g) Angelus Politianus in praefatione ad Suetonium, Basileæ 1537. — hunc (i. e. Suetonium) nonnulli inter Grammaticos recensent.

his Lives of the Twelve first *Cæsars*, in the Opinion of *Vives* (b), that (i) learned *Spaniard*, merits the character of a most diligent and incorrupt Historian.

Nor are Examples wanting of this kind in our own Nation, since we may challenge *Will. Camden* and *Richard Knolls* to our side. To the former of whom (k), the most celebrated *Camden*, we are indebted for his accurate Description of *Britain*, *Ireland*, and the adjacent Isles, while he was (only) Usher of *Westminster School*. And to the latter we are oblig'd for the *Turkish History*, while he was Schoolmaster of *Sandwich* in *Kent*. (l)

All which Instances are undeniable Testimonies, that the Studies of Grammar and History are not so incompatible, as some are made to believe.

A Catalogue of the Historians cited in the following Collection, and the Times when they liv'd.

Anno Mundi.	Anno Christi.
J ulius Cæsar ————— 3900	<i>Petrus Blænsis</i> ————— } 1160
Ann. Christi.	<i>Henricus Huntindoniensis</i> ————— }
<i>Cornelius Tacitus</i> ————— 110	<i>Richardus Hagulstadensis</i> ————— 1180
<i>Zosimus</i> ————— } 425	<i>Guilielmus Neubrigensis</i> ————— }
<i>Paulus Orosius</i> ————— }	<i>Gervasius Doroberniensis</i> ————— }
<i>Gildas Sapiens</i> ————— 581	<i>Rogerus de Hoveden</i> ————— 1202
<i>Venerabilis Beda</i> ————— 700	<i>Radulphus de Diceto</i> ————— 1210
<i>Afferius Menevensis</i> ————— 900	<i>Matthæus Paris</i> ————— 1240
<i>Edwardus sive Ethelwerdus</i> ————— 970	<i>Johannes Bromton Forvallenensis</i> ————— 1328
<i>Ingulphus Croylandensis</i> ————— 1066	<i>Matthæus Westmonasteriensis</i> ————— 1377
<i>Florentius Wigorniensis</i> ————— 1118	<i>Henricus de Knyghton</i> ————— 1395
<i>Eadmerus</i> ————— 1120	<i>Johannes Frossardus</i> ————— 1420
<i>Willielmus Malmesburienfis</i> ————— 1143	<i>Thomas de Walsingham</i> ————— 1440
<i>Ethelredus sive Ailredus Rbievallenfis</i> } 1150	<i>Historiæ Croylandensis continuationis</i>
<i>Simeon Dunelmensis</i> ————— }	<i>Author</i> ————— 1486
<i>Johannes Hagulstadensis</i> —————	<i>Polydorus Virgilius</i> ————— 1533

(b) Joan. Lodovicus Vives de disciplinis l. 5. fol. 128. Antverpiæ 1531. Sueton. Tranq. Græcorum & Latinorum scriptorum diligentiss. atque incorruptiss. res XII. Cæsarum videtur mihi integerrimè exponere, &c.

(i) Erasmi Epistol. l. 20. p. 755. ——— Basileæ 1540. Johanni Ludovico Vivi ——— tibi vel Hispano vel undique docto.

(k) Histor. & Antiq. Univers. Oxon. l. 2. p. 270. Oxon. 1674. Scholæ Westmonasteriensis Hypodidasculus, & vel cedente ultro, vel morte abrepto venerabili illo Theologo Edvardo Grant, Gymnasiarcha emicuit. Id muneris summâ cum affiduitate ac diligentia obivit: interea tamen operis clarissimi cui Britannia nomen factum, fundamenta solennibus feriandi temporibus horisque succisivis jecit; sed & idem porro dum in literis præmonstrandis occupatus esset, absolvit, typisque semel atque iterum ut opinor, mandandum curavit. ——— Britannia sive regnorum Angliæ, &c. descriptio, Londini 1585. ——— 87. Et Degorei Whear. Parentatio Historica, inter Camdeni Insign. Oxon. 1624. ——— Promagister constituitur ——— ut venerabili decedente Grantâ, ipse sine ambitu summus moderator audiret. Dum laboriosam hanc

sustinuit provinciam, Deus bone! quæ & quanta elucubravit? Græcè, Latinè, Anglicè, eaque per horas subcesivas! unum illud & incomparabile opus suum mihi videtur, quo Britannia nostræ Antiquitatem & suæ antiquitati Britanniam restituit, &c. That he was not the chief Master of that School when he wrote his *Britannia*, but only Usher thereof, (tho both the last quoted Authors seem to make him the contrary, by the Interea tamen, &c. of the one, and the Dum laboriosam hanc sustinuit provinciam of the other) I need no other Proof, than his calling Westminster (in his Epistle Dedicatory to Will. Cecil Lord Burghley) Collegium hoc nostrum Westmonasteriense; and Edw. Grant's writing himself ——— Scholæ Westm. moderator before his Verses in praise of Camden.

(l) Histor. & Antiq. Univers. Oxon. l. 2. p. 163. Richardus Knolles ——— ut Scholæ ipsius Sandvici in agro Cantiano præflet. In illo munere, bene quidem de Grammaticâ, sed melius de Historiâ meruit, quam horis subcesivis ——— ita adornavit ut duodecim vel circiter annorum spatio ab illo conscripta fuerit Historia Turcica Lond. 1610. Angl.

A New History of the Succession of the Crown of England, &c.

WHAT were the Transactions of this Nation before *Julius Caesar* first invaded it, is not easy to understand, since the Inhabitants thereof had no certain way of conveying them down to the view of Posterity (a). On which account we may justly reject all those pretended Successions of Kings here in *Britain*, from *Gomer* and *Brute*, as fabulous.

That the *Britans* had Kings before the coming of *Cæsar*, is own'd (b) not only by *Cornelius Tacitus*, (who (c) pretends that a man ought to write without engaging his Affections for any Party) but by (d) *Julius Cæsar* himself, who mentions four Kings to have been in that part of *Britain*, which we now call *Kent*.

But both in the time of that famous Emperor (e), and in that of *Tacitus* (f), as then *British* Royalties were but small, so their mutual Wars were frequent. And tho upon the coming of *Cæsar*, the chief Command of all, and especially of managing the War against him, was devolved upon one *Cassivilan*, as the fittest General to oppose *Cæsar's* Victories: Yet was it a very rare thing to see two or three Cities united in a common Danger; their continued Discords laying them open to the fury of every Invader.

In such Factions who can expect a direct Succession, when the Princes themselves were not quiet in their little States?

Roman Domination
in Eng-
land.

But the Roman Domination extending it self over this (g) Nation by the Valor and Conduct of *Julius Agricola*, during the Empire of *Domitian*, those Princes who sometimes rul'd in a corner of this Island, being substituted by the Roman Powers, could not dispose of the Succession of their little Crowns, without the leave of the *Cæsars*: So that indeed here was no Government, but what the conquering Romans were pleas'd to allow of, for the space of near 400 years; during which time an exact account of the Monarchical Succession in this Nation, which often was not in being, cannot be given, unless we consider it in the Persons of the Roman Emperors, who rul'd here most an end by their Lieutenants. And as their Elections were often tumultuary, so was the Succession thereby confus'd and disjointed, seldom remaining long in one and the same Family.

That Empire being rudely shaken and almost torn in pieces (in the West) (h) by Rebels and the *Barbarians*, who broke in upon it in the Reigns of *Honorius* and *Valentinian III.* (i) this Nation was thereby freed from the Roman Yoke, but

(a) Dr. Edw. Stillingfleet's *Origines Sacrae*, Book 1. c. 6. sect. 4. p. 96. London 1663.

(b) *Tacitus* in vitâ Julii Agricolaë, *Amsterdami* 1638. p. 471. Olim regibus parebant.

(c) Id. *Histor. lib. 1.* p. 287. Sed incorruptam fidem professis, nec amore quisquam & sine odio dicendus est.

(d) *Julius Cæsar* in *Comment. de bello Gallico*, lib. 5. p. 83. *Cassivellaunus* ad *Cintium*, quod esse ad mare supra demonstravimus, quibus regionibus 4. reges præerant, *Cingetorix*, *Cornelius*, *Taxinagulus*, *Segonax*, *Nuncios* mittit. *Amstelodami* 1664.

(e) Id. *ibid.* p. 79. Summa imperii bellici; administrandi, communi consilio permixta est, *Cassivellauno*, cujus fines à maritimis civitatibus flumen dividit, quod appellatur *Tamesis*, à mari circiter millia passuum lxxx. Huic superiori tempore cum reliquis civitatibus continentia bella intercesserant, sed nostro adventu permoti *Britanni* hunc toti bello imperioque præfecerant.

(f) *Corn. Tacitus* in vitâ *Jul. Agricolaë* p. 471. Nunc per principes factionibus & studiis

trahuntur. Rarus duabus tribusque civitatibus ad propulsandum commune periculum conventus. Ita dum singuli pugnant, universi vincuntur.

(g) Vid. eundem, *ibid.* p. 482, 483.

(h) *Zosim. Histor. Novel. lib. 6.* p. 376. *Oxonii* 1679. καὶ ἡ Ἰβερία καὶ τῶν ἐν Κελτίαις ἐθνῶν ἀποστάσις, καὶ ὁ ἐπὶ τῶν ἑσθονοῦντων ὁ Κωνσταντίνος, ἐγένετο, &c. *Paulus Orosius Histor. ad Aurelium Augustinum* l. 7. p. 223. col. 1. in *Biblioth. Patrum Supplement. Tom. 1.* *Parisiis* 1639. apud *Britannias*—*Constantinus* ex infimâ militiâ propter solam spem nominis, sine merito virtutis eligitur.

(i) *Ætio* ter consuli gemitus *Britannorum*, &c. —apud *Gildam Sapiientem* de excidio *Britanniæ*, in *Biblioth. Patrum*, *Parisiis* 1610. *Tom. 5.* col. 477. *The Britans* sued to *Ætius*, the famous Roman General in Gaul, for his assistance against the Scots and Picts, when he had been thrice Consul, which happen'd in the Reign of *Valentinian III.* and he discharged the Office of Consul the third time in *An. Dom.* 446. *Isaacson's Chronology, or Saturni Ephemerides*, p. 228. *London* 1633.

found its Condition not alter'd for the better : Since it was so far from being able to maintain its own Liberty and support a Regal Estate, after the final departure of the *Romans*, that it became first a Prey to its furious Neighbours, the *Scots* and *Picts* (whom the *Romans* had so often and but lately repelled) and at last to the warlike *Saxons*, whose Aid the *Britans* had implored against the Encroachments of their Northern Foes, and who at last subdu'd all that part of *Britain* now call'd *England*, and cantoniz'd it into an Heptarchy or sevenfold Kingdom, driving the antient Possessors the *Britans* into *Wales*.

But before this Conquest was effected, many Battels were fought, and much Blood shed for above two hundred years ; in which time the *Britans* struggled for the Sovereignty with these formidable Invaders, and had during that long space of time, Kings who presided over them, who as (according to the Testimony of (k) *Gildas* the most antient Writer of our Nation now extant) they were usually chosen, so did not they obtain that Honor upon any other score than that of excelling others in Cruelty and other Vices : For, if upon their advancement (saith my Author) they were milder, and seemed more favourable to Truth than usual, they were quickly dispatched by those who anointed them, and made way for those who had less sense of Humanity : He being made the Object of the universal hatred, and all Darts levelled at him, as the Subverter of *Britain*, who was less wicked than others. In such a confused Monarchy, who can expect a direct Succession, when Vice was the Stair whereby to ascend the Regal Throne, and when Passion and Revenge carried all before them ? 'Tis true, that pious man, whose Writings (yet extant) shew his dissatisfaction at the Iniquity of his Age, (l) mentions, that the Off-spring of *Aurelius Ambrosius*, who once sway'd the *British* Scepter, remained in his time, and was mightily degenerated : But he doth not say, that they succeeded to the Regal Dignity. Which silence of his implies, that they (being of the true Royal Race) were in that Age (when Vice was so prevalent and barefac'd) laid aside, and consequently that Hereditary Succession was not so much attended to in that horrid Convulsion of the *British* State, as at other times of greater Tranquillity.

Whatsoever was the Succession of those *British* Princes, against whom *Gildas* inveighs with bitterness enough, we cannot expect that during the (m) *Saxon* Heptarchy, it should be constantly observ'd as sacred, when each Prince contended with his Neighbours about the limits of his Territories, and the whole seemed to be only a cloudy state of War ; and when even in those few lucid Intervals of Peace each Kingdom was govern'd by different Laws, it can scarce be suppos'd that they all agreed in the same Rule of Succession. Albeit in the less and more quiet Kingdoms Crowns were disposed of generally in an Hereditary manner.

But in the more potent Dynasties of *Kent*, *West Saxe* and *Northumberland*, that Saxon Order was not constantly adhered to. Thus, according to *Will. of Malmsbury*, ^{Time.} who (of all the antient Historians which have written in Latin, and are yet extant) writes the most copiously of the Heptarchy ; *Bede* dying before the conclusion thereof, and the rest who were senior to him in time, scarce animadverting upon it, but dwelling more upon the Transactions of their Progenitors, after it became a Monarchy, as Subjects more worthy an Historian's Pen : I say, according to the account that this Monk of *Malmsbury* hath given us in the Kingdom of *Kent*, * for six years space, there was a Flaw in the Regal Succession.

In that of *Northumberland*, the second King *Alla* broke the direct (n) Succession, being of the same stock, but descended in a different line from *Woden* their great

(k) *Gildas*, ubi suprà, col. 477, & 478. Ungebantur reges non per Dominum, sed qui ceteris crudeliores existerent— ab unctoribus non pro veri examinatione trucidabantur, aliis electis trucidioribus. Si quis verò eorum mitiorum, & veritati aliquatenus proprius videretur, in hunc quasi Britanniarum subversorem, omnium odia telaque sine respectu contorquebantur, & omnia quæ displicerint, Deoque placuerint, æquali saltem lance pendebantur.

(l) Id. ibid. col. 479. Cujus (i. e. Aurelii Ambrosii) nunc temporibus nostris soboles avitâ bonitate degeneraverit.

(m) *Whose first coming into this Nation, and that*

upon the Britans inviting them hither, is placed by venerable Bede, in An. Dom. 409. Bede Ecclesiasticæ Histor. gentis Anglorum Lovanii 1565. lib. 1. cap. 15. fol. 16. Anno ab incarnatione Domini quadringentesimo nono Anglorum sive Saxonum gens invitata à rege præfato, Britanniam tribus longis navibus advehitur.

* W. Malmesburiensis de gestis Regum Anglorum, lib. 1. fol. 11. Francofurti 1601. Cantiarum sexennio circiter à regiâ successione claudicatum.

(n) Id. Ibid. lib. 1. c. 3. fol. 17. Successor ejus Alla ex eodem quidem genere, sed diverso à Wodenio tractu.

Ancestor; and the many Murders (o) perpetrated upon the Kings thereof towards the conclusion of that Dynasty, deterred others from aspiring to that Dignity, whose Possession was so fatal: (p) so that the Throne was vacant for thirty three Years.

Nor was the Crown of *West Saxe*, (the most potent Kingdom of all the Heptarchy, and which at last ruined all the rest) enjoyed in a direct hereditary Succession, since for seven Descents, from King (q) *Ina's* time till *Britbric's*, the Succession in the right Line was not observ'd. But this Proof is superfluous, since no rational man can believe, that in so many petty States still contending with each other, any thing could long bear sway there, but Strife and Confusion. I shall therefore without any further disquisition into the procedure of those little Kingdoms, pass on to King

Egbert.

Egbert, who altho he be named the first (r) *Saxon Monarch*, who rul'd in this Island, and therefore is usually stil'd the Uniter of the Heptarchy into one entire Monarchy, yet cannot he in strictness be so judged: Because the Kingdoms of the *Mercians* and *East Angles* were not wholly extinguish'd in his time, nor till above thirty Years after, when his famous Grandchild, the great *Alfred*, first establish'd the *Saxon Monarchy*.

This magnanimous Prince, *Egbert*, the only surviving Man of the truly Royal Race, and who (s) upon that score had attracted the envy of his Predecessor *Britbric*, (as we are inform'd by *William*, Monk, and Keeper of the Library at *Malmesbury*, so much (t) commended by our Learned Sir *Henry Savile*, and (v) by the most Learned Primate of *Ireland*, Dr. *James Usher*) was the first (as hath been already said) who brought the disjointed States of this Nation into the Form of a Monarchy; and who by his Valor and prudent Conduct made it bear some Character and Figure in this Western World. And 'tis from him, that I shall begin my Epochæ, and derive the Original of our Regal Succession, who by Merit as well as Birth justly obtain'd the supreme Dignity (x) by Election. Being invited (saith the last quoted Historian) to return to *Britain* (from *France*, whither he had fled in the Reign of King *Britbric*) by frequent Embassies from his own People, and after his Return being enjoyn'd to rule them, he satisfied the desires of his Country, in the Year of Grace 800.

With this Account of the manner of his Advancement to the Throne agrees *Ethelward* or *Elward* (y) an Historian of the Blood Royal, being descended from *Egbert* himself, by his Grandchild *Ethelred*, third Son to King *Ethelwolp*; who (z) saith, That *Egbert* was ordain'd King over the Western English. But *Florentius*

(o) Id. ibid. fol. 26. Post Athelredum nullus ad regnum ascendere ausus est, dum quisque superiorum sibi casum timeret.

(p) Ita cessante rectore, per triginta tres annos, provincia illa risui & prædæ finitimis fuit.

(q) Id. ibid. lib. 1. c. 2. fol. 16. Nam & ipse Brithricus, & ceteri infra Inam Reges, licet natalium splendore gloriantes (quippe qui de Cerdicio originem traherent) non parum tamen à linæ stirpis regni exorbitaverant.

(r) Henric. Spelman—Concilia, Londini 1639. post Errata. Et nota, quod licet Collector tabulæ seu Elenchi Regum Anglo-Saxonum, in ejusdem fine dixerit, septem Regna in Monarchiam coaluisse sub Egberto Rege Occiduum Saxonum; quia is ab aliis primus monarcha perhibetur: Certum tamen est regna Merciorum & Anglorum Orientalium non extincta esse penitus per 30 & supra annos post Egberti exitum: & Aluredum magnum (ejus è filio nepotem) primum fuisse qui absolutam statuit monarchiam.

(s) W. Malmesbur. de gestis Regum Anglorum, lib. 1. c. 2. fol. 16. Egbertum solum regalis prosapiæ superstitem metuebat (i. e. Brithric) obicem.

(t) Henr. Savile Epist. dedicat. Eliz. Regina præfix. Rerum Anglicarum Scriptor. post Bedam præcipuis, Francosurti 1601. Gulielmus

Malmesburiensis, homo, ut erant illa tempora, literatè doctus, qui septingentorum plus minus annorum restantâ fide & diligentia pertexuit, ut è nostris propè solus historici munus explere videretur.

(v) Jac. Usserius Epist. dedic. libri cui titulus, Britannicarum Ecclesiarum Antiquitates, Dublini 1639. — Nostrorum Historicorum præcipuus Gulielmus Malmesburiensis Bibliothecarius.

This W. of Malmesbury dedicated his History to Robert Earl of Gloucester, natural Son to our King Henry I.

(x) Wil. Malmesb. ibid. lib. 2. c. 1. fol. 36. Egberthus ut vir ille ad tantum regnum electus — Ibid. defuncto Brithrico frequentibus suorum nunciis Britanniam reversus, moxque imperare jussus, patriæ desideris satisfecit, anno Dominicæ incarnat. octingentesimo.

(y) Ethelwerdi Chronica Francosurti 1601. lib. 4. c. 2. p. 843. Quartus Ethelred, qui post obitum Edelbyrhti successit in regnum, qui & meus atavus; & Wil. Malmesb. in prol. lib. 1. de gestis Regum Anglorum p. 7. — De Elwardo illustri & magnifico viro, qui chronica illa Latine aggressus est digerere, præstat silere.

(z) Ethelwerd. chronica. lib. 3. c. 2. — Ordinatur Ecgbryht super occidentales Anglos in regnum, &c.

(a) of Worcester only barely tells us, that Egbert succeeded to Britanic, without giving us the Reasons why he attain'd to the Regal Diadem.

To the renown'd Egbert succeeded his eldest Son Ethelwolph in the Kingdom of West Saxe; but not in those * of Kent, Suffex and East Saxe, saith Henry, Archdeacon of Huntingdon. For these, he saith, were bestowed by Egbert on his younger Son Ethelstan.

Indeed W. of (b) Malmsbury, Senior to Henry, and the more (c) antient Ethelward, seem to make Ethelstan the Son (and not the Brother) of Ethelwolph, and consequently that those three Kingdoms were the Gift of King Ethelwolph to Ethelstan, and not of Egbert: but whethersoever it be, it is certain, that his elder Brother possessed not all his Father's Kingdoms.

The same Method which his Father Egbert (as H. of Huntington tells us) had taken in distributing his Kingdoms at his Death, was pursu'd by Ethelwolph himself. For (d) as W. of Malmsbury informs us, some Months before he yielded to Fate, he made a Will, and divided his Kingdoms betwixt his two elder Sons Ethelbald and Ethelbert: And accordingly, they were ordain'd Kings after his Decease (so (e) Ethelward expresses it) Ethelbald possessing West Saxe, and Ethelbert the Kingdoms of Kent, of the Eastern, Southern, and Middle Angles. But the famous King Alfred (more antient than either of these last mention'd Historians) (f) quoting his Father's Will (for he was Ethelwolph's Son, and when an Infant was carried to Rome by his Father, and was (g) anointed as a King by Pope Leo IV. as Asser Menevensis tells us) He, I say, cites his Father's Will, wherein his Father bequeath'd his Kingdom to his three Sons, Ethelbald, Ethelred (saying nothing of Ethelbert) and himself, upon this condition, that which soever of the three should survive the rest, he should enjoy the whole Sovereignty. Which Will is an undeniable Evidence, that antiently, even in this very Nation, the whole Kingdom was not entail'd upon the eldest Sons of our Kings.

Upon the Death of the Eldest Son Ethelbald, betwixt whom and his Brother Ethelbert, according to (b) Ingulphus, the Kingdom had been divided, the Survivor possessed (i) the Kingdom of West Saxe also.

Succession
of the Sax-
on Kings.

To Ethelbert succeeded his Brother (k) Ethelred in the entire Kingdom, which his Father left. Concerning whose accession to the Throne, three of our most an-

(a) Florentii Wigorniensis chronicon ex chronicis, Francofurti 1601. p. 577. Rex occidentali-um Saxonum Brihtricus obiit, & Egbertus successit.

* Henrici Huntindoniensis Historiæ, Francofurti 1601. lib. 4. p. 345. Regnorum, quæ in propria manu tenebat, filios fecit hæredes: Edelwulfum super West Sexe, Edelstan verò super Cent & Sudsexe & Est Sexe. This Historian is highly commended (together with Roger Hoveden) by the excellently learned Sir H. Savile Epist. dedicat. Rerum Anglicarum Script.—Huntindoniensis, & Hovedenus, authores cum primis boni & diligentes, verissimique superiorum temporum indices.

(b) Wil. Malmesb. de gestis Reg. Angl. l. 2. c. 2. p. 37. Cætera quæ pater (i. e. Egbertus) subjūgaverat, appendicia Ethelstano filio contradidit.

(c) Ethelw. Chronic. lib. 3. c. 3. p. 841. —Regnumque Cantuariorum tradidit filio suo Ethelstano & Sexenæ & Suthriæ, hoc est orientalem partem, australem & mediam. It cannot be denied, that Ingulphus was senior to W. of Malmsbury; but then it must be granted, That he treated of the History of our Kings before the Norman Conquest but by the by, and therefore is not here produced as an Evidence one way or other.

(d) W. Malmesb. de gest. Reg. Angl. l. 1. c. 2. p. 40. Paucis verò ante mortem mensibus testamentum fecit, in quo post divisionem inter Ethelbaldum & Ethelbrithum filios, &c.

(e) Ethelw. Chronic. l. 4. c. 18. Præterea post obitum Athulfi regis, ordinati sunt filii ejus

in regnum, Ethelbald super Occidentales Anglos, & Aethelbyrt super Cantuarios, & Orientales, Australes quoque & medios Anglos. p. 842.

(f) Testamentum Ælfredi Regis in calce Asserii Menevensis (the Time and Place of whose Edition is not mention'd) p. 36.—De hæreditate quam pater meus Æthelwulphus rex nobis tribus fratribus delegavit, viz. Æthelbaldo, Ætheredo & mihi: ita quòd qui nostrum diutius foret superstes, ille totius regni dominio congaunderet.

(g) Asserii Menevensis Ælfredi Regis res gestæ p. 3. quo tempore Leo Papa 4. Apostolicæ Sedi præerat; qui prefatum Ælfredum oppido ordinans unxit in regem, & in filium adoptionis sibi met accipiens confirmavit.

(h) Historia Ingulphi Oxoniæ 1684. p. 17. mortuo simul Ethelwulpho Rege Westsaxonum, Ethelbaldus & Ethelbertus filii ejus regnum paternum inter se partiuntur.

(i) Ethelw. Chronic. p. 842. Quinquennio ante impleto obiit Ethelbald rex, & Æthelbyrht frater ejus successit in utraque parte. Rex Æthelwaldus defunctus est — & Æthelbertus frater suus Cantiam, Suthregiam, Suthsaxan quoque suo dominio (ut justum erat) subjunxit. Florent. Wigor. Chronic. p. 584.

(k) W. Malmesb. de gest. Reg. Angl. l. 2. c. 3. p. 42. anno Dom. 867. Ethelredus filius Ethelwulphi regnum paternum obtinuit — Ingulphi Histor. p. 18. & Ethelredus tertius frater in regnum elevatur. Ethelw. Chronic. l. 4. c. 2. p. 843. Enimvero Æthered successit in regnum post obitum fratris sui Ethelbyrhti.

tient Historians have different Expressions. *W. of Malmesbury* saith, he obtain'd his Father's Kingdom; *Ingulphus*, that he was lifted up, or advanc'd to it; and *Ethelward*, that he succeeded in it, after his Brother *Ethelbert's* Death.

Presently after *Etheldred's* Death, his youngest Brother, the Learned, Valiant, and Prudent *Alfred*, (who had been next in degree (l) to his Brothers during their Lives, as *Affer Menevensis*, who liv'd at that time, informs us) undertook the Government of the whole Kingdom, with the Good-Will of all. To which Dignity he might easily have attain'd (m) (saith the same Historian) even during his Brother's Life-time, if he had pleas'd then to accept thereof (tho a later Author affirms, that he did (n) reign so) and that too with an Universal consent. And he accordingly (o) in his Will doth own, that he obtain'd the Crown, by the Divine Gift, by the endeavor of Archbishop *Athelred*, and by the Consent and Assent of all the *West Saxon* Nobility. Which what he intends thereby, I leave to the Reader to determine. Altho it cannot be deny'd, that as he obtain'd the Kingdom, (as (p) the Historian *Ethelward*, his Kinsman, words it) and that too pursuant to (q) his Father's Testament (which judg'd it to him who should outlive the rest) and consequent to the Gift (or Election) thereof to him, by the Princes and Elders of the People; so he thereby stept over the Heads of his elder Brother's Sons (two of which he mentions in his own Will, viz. *Athelmus* and *Ethelbald*, bestowing a Village on each of them) to arrive to the Regal Honor and Dignity. Which was so great a Breach in the Chain of the Succession, that I often wonder that a late Author did not take any Notice of it: And that especially, when *Ethelward*, one of the most antient Historians of our Nation, and a Descendent from the elder Brother *Ethelred*, was thereby disinherited in the Age succeeding.

Upon the Death of the famous *Alfred*, his Son (r) *Edward* was chosen King by the Nobles on *Whitsunday*, as his Kinsman *Ethelward* informs us. *William* (s) of *Malmesbury* saith, he obtain'd the Kingdom in the Year of our Lord 901.—which Words, whether they will import any more than a tacit Assent, or that they signify an Election of him by the Grandees, I shall not presume to judg. But when this Warlike Prince had paid his last Tribute to Nature, his Son *Athelstan* succeeded him in the Throne.

In declaring which, the Historians have very different Expressions, and those opposite to each other: Albeit the most antient among them, viz. (t) *Ethelward* and (v) *Ingulphus*, barely mention his Succession to that Dignity. (x) *Florentius* of *Worcester* saith, His Father left the Kingdom to him; which is as ambiguous, as what that Author had said before of *Ethelred* the first, (y) that he undertook the Government of the Kingdom after his Brother *Ethelbert's* Death: Which Sentence might be turn'd to different Senses ——— But, to proceed, *William* of *Malmes-*

(l) *Affer. Menev. in Ælfredi Regis gest. p. 12. Eodem anno Ælfred. supra memoratus, qui usque ad id temporis viventibus fratribus suis secundarius fuerat, totius regni gubernacula divino concedente nutu, cum summâ omnium illius regni accolarum voluntate confestim fratre defuncto suscepit.*

(m) *Id. ibid. Quod etiam vivente prædicto fratre suo, si dignaretur accipere, facillimè cum consensu omnium potuerat invenire.*

(n) *Ethelred. Abbas Rievall. inter Histor. Anglic. Script. X. Londini 1652. col. 352.—Cum verò post mortem fratrum suorum, cum quibus aliquo tempore regnavit, ad eum totum regnum, &c.*

(o) *Testamentum Ælfredi Regis—Ego Ælfredus divino munere, labore ac studio Athelredi Archiepiscopi, nec non totius West-Saxonum nobilitatis consensu pariter ac assensu. Occidentalium Saxonum rex—p. 36.*

(p) *Ethelw. Chronic. l. 4. c. 3. p. 844. Alfred obtinuit regnum migrata post fratrum, &c.*

(q) *Testament. Ælf. p. 36.—Tam de hereditate quam Deus ac principes cum senioribus populi misericorditer ac benignè dederunt, quam de hereditate quam pater meus Æthelwolpus rex*

nobis tribus Fratribus delegavit, &c. ut supra. —ibid. p. 38.

Athelmo verò fratris mei filio do villam de Edingburn—Et fratris mei filio Ethelbaldo concedo villam de Godelming.

(r) *Ethelw. Chronic. l. 4. c. 4. p. 847. Successor etiam tam monarchiæ Eadwerus post filius supra memorati regis coronatur ipse—à primatibus electus Pentecostes in die, &c.*

(s) *Wil. Malm. de gest. Reg. Angl. l. 2. c. 5. p. 46. anno dominicæ incarnationis nongentesimo primo regnum obtinuit Edwardus filius Ælfredi.*

(t) *Ethelw. Chronic. l. 4. c. 5. p. 848. anno etiam in quo imperii functus fuerat Stetos Æthelstan rex robustissimus, &c.*

(v) *Ingulphi Histor. p. 29. Cui successit filius suus primogenitus Athelstanus. And so he doth of all the Kings from K. Ethelred to King Edwy. ibid. from p. 25. to p. 41. which lax way of writing determines the Business in favour of no side.*

(x) *Florent. Wigorn. Chronic. p. 602. Ex hac vitâ transiens, Æthelstano filio regni gubernacula reliquit.*

(y) *Id. ibid. p. 585. Æthelredus regis Æthelberti frater, Occidentalium Saxonum regni gubernacula suscepit.*

bury (the next Historian in order of Time) tells us, that (z) a few days after his Father's Death, *Ethelward*, *Athelstan's* Brother, died also, and was buried with him at *Winchester*. Therefore (adds the same Author) *Athelstan* was elected in the same Place, with the full Consent of the Grandees, altho there was one *Alfred*, who with some factious Persons endeavour'd to oppose him: The Occasion (continues the Historian) of this dispute with *Athelstan* was, as they report, because he had been begotten of a Concubine. But besides that Reproach, (if that was really true) *Athelstan* (he said) had nothing that was ignoble in him.

Simeon, (a) Monk and Precentor of *Durham*, reckon'd (b) by our great *Selden* among the Learned Men of his Time, saith, He was advanc'd to the Kingdom. And so doth *Roger Hoveden* (c), who was (d) as much the Ape of *Simeon*, as he sometimes was of *Florentius* of *Worcester*, or the Abbot (e) of *Foreval* was of *Roger*. *Henry* of *Huntington* saith (f), that he was elected. *John Bromton*, Abbot of *Foreval* (g) lately mention'd, saith only, that he was consecrated upon his Succession, by *Athelm* Archbishop of *York*; without informing us any more of the Motives of his Advancement, than that he was the eldest Son of his Father. And lastly, *Matthew* of *Westminster*, junior to all the rest, declares, that (h) *Athelstan* his Father's eldest Son created King, was at the royal Village of *Kingston* consecrated by (the aforesaid Prelate) *Athelm* Archbishop of *Canterbury*. The Reason why I quoted so many Historians, and many of them too far distant from the Reign of *Athelstan*, is because most of them have been already cited by Authors of different Judgments to maintain their own Hypotheses: and if I had in this Case of King *Athelstan*, so much bandied betwixt two Parties, omitted the various Opinions of these Historians, I might have been censur'd as partial to this or that Side. Which having done, I leave them to the Judgment of the Reader, to interpret as his own Reason, assisted with the Historians Narratives, will oblige him; and so I go on to

Edmund, King *Athelstan's* younger Brother, who succeeded in the Regal Power (i) after *Athelstan's* Death, without any Scruple or Opposition, since his elder Brother left no Issue. But, though *Edmund* left two Sons when he died, viz. *Edwy* and *Edgar*; yet (k) did neither of them possess the Regal Throne, his youngest Brother *Edred* stepping into it before them. The antient Historian *Ethelward* gives this Reason for *Edred's* ascent to the Regal Dignity, because he was *Edmund's* Brother. But, tho this last mention'd Author be (at least) one of the most antient Latin Historians we have in this Nation, and liv'd nearest to the Time of any that wrote of those Affairs; (all which, in this Disquisition, I all along adhere to, as the best Evidences and fittest Judges of the Course of the Succession in the Times preceding them) yet do I not herein look upon this Reason to be cogent

(z) 47. Wil. Malmesb. de gestis regum Angl. l. 2. c. 6. p. 48. anno Dominicæ incarnationis, nongentesimo vicesimo quarto, Athelstanus filius Edwardi regnare cœpit. Frater ejus Ethelwardus paucis diebus post patrem vitâ decedens, sepulcrum cum eodem Wintoniæ meruerat. Itaque magno consensu optimatum, ibidem Æthelstanus electus——Quamvis quidam Alfredus eum factiosis suis (quia seditio semper invenit complices) obviare tentasset. Occasio contradictionis, ut ferunt, quod Æthelstanus ex concubinâ natus esset. Sed ipse præter hanc notam (si tamen vera est) nihil ignobile habens, &c.

(a) Simeonis Dunelmensis Historia de gestis regum Anglorum, Londini 1652. col. 154. Ethelstanus verò in Kingestune, id est in villâ regiâ, in Regem levatur, &c.

(b) Joannes Seldenus ad lectorem, in editione Historiæ Anglicanæ decem Scriptor. Londini 1652. p. 1. Simeon Dunelmensis monachus ibi Benedictinus & Ecclesiæ Præcentor, atque viris illius avioctioribus merito connumerandus.

(c) Rogeri de Hoveden Annalium pars prior, Francofurti 1601. p. 422. Athelstanus verò in Kingestune, id est, in regiâ villâ, in regem levatur, &c.

(d) Joan. Selden. ut supra, p. 2. Rogerius Hovedenus, vir alioquin laudandus, qui Scrinia Simeonis (sc. Dunelmensis) suppresso ejus nomine, strenuè compilavit, & aliena pro suis, gloriæ avidulus, supposuit.

(e) Id. ibid. p. 41.——Plura ex Hovedeno sumpsit, &c.

(f) Henrici Huntingdon Historia, p. 354. Adelstan filius Edwardi electus est rex in Merce, & sacratu apud Kingstun, &c.

(g) Chronicon Johannis Bromton Abbatis Journalensis, Londini 1652. col. 837. defuncto rege Edwardo Adelstanus filius suus primogenitus, sibi succedens, consecratus est apud Kyngeston ab Athelmo Dorobernienfi Archiepiscopo, &c.

(h) Flores Historiarum per Matthæum Westmonasteriensem Francofurti 1601. p. 185. Ethelstanus filius ejus primogenitus apud Kingestoniam, regiam villam, creatus, ab Æthelmo Dorobernienfi Archiepiscopo consecratur.

(i) Ethelw. Chronic. l. 4. c. 6. p. 848. post illum (1^o. Æthelstanum) Eadmund omitta successit in regna.

(k) Id. ibid. c. 7. p. 849. Cui (i. e. Eadmund) successor exiit Eadred in regnum, suus quippe frater.

enough: Since thereby the strict hereditary Succession was broken without a seeming just Ground for so doing.

To pursue therefore my Design herein, give me leave to add, that (l) *Florentius* of *Worcester* saith, *Edred* being the next Heir succeeding his Brother, took upon him the Kingdom. (m) *Will.* of *Malmesbury* saith, he undertook the Kingdom. What is meant by these Expressions, I determine not: Since neither Force nor Choice is therein mention'd—*Simeon* (n) of *Durham*, (o) *Henry* of *Huntington*, and (p) *Roger* of *Hoveden* barely tell us of his Succession to the Crown, without adding the Cause why he did so. Indeed *John Bromton* (q) subjoins this Reason, that the two Sons of *Edmund* could not yet reign, because of their immature Age. And (r) *Matthew* of *Westminster* gives this: That they, tho lawful Heirs, could not succeed, because of their unlawful (or unfit) Age. Which is a very strange Expression, and implies, That (then) a certain Age was requir'd to the completion of an Hereditary King; without which Qualification he was otherwise incapable of the Succession. However it is obvious to any thinking Person to mark how disjointed the hereditary Succession became in this *Edred*, that he who had Nephews alive, and Sons of his elder Brother, and Heirs to him (by consequence) in a lineal descent, should, notwithstanding their just Title, be seated upon the Throne of his royal Ancestors, without the least Shadow of Violence, so far as the Light we have from these old Historians will permit us to see and observe.

When *Edred* was dead, his elder Brother's Son *Edwy* succeeded him; but thro his ill management of Affairs, (t) the *Mercians* and *Northumbrians* chose his young Brother *Edgar*, even in his life time, to reign over them: Which (v) Act, however omitted by *Ethelward*, who concludes his History with that of the renowned *Edgar*, is recorded (x) by *Florentius* of *Worcester*, *Simeon* of *Durham*, *Roger* of *Hoveden*, and *John Bromton*, and hinted by *Ingulphus* himself.

After *Edwy*'s decease, *Edgar* became King of the whole Nation, unto which, as (y) *Florentius* of *Worcester* and *Simeon* of *Durham* do say, he was elected: which Word may justly be suppos'd to be us'd in a large sense, and not in the nature of a popular Election; because he was the sole surviving Heir of the Royal Family, in the direct Line from *Alfred*, and who consequently had no Competitor for the Royal Diadem: And since it is easy enough for any to observe, that through the whole current of History the Royal Family of *Cerdic*, the first King and Founder of the *West Saxon* Royalty in this Nation, was hitherto never wholly laid aside.

(l) Florent. Wigor. chronic. p. 604.—mox proximus hæres Edredus fratri succedens regnum naturale suscepit.

(m) W. Malm. de gest. Reg. Angl. l. 2. c. 7. Fol. 55. anno Dominicæ incarnationis 946. Edredus tertius ex filiis Edwardi regnum suscipiens rexit annos 9. & dimidio.

(n) Sim. Dunel. Histor. de gest. Reg. Angl. col. 156.—Cui Edredus frater suus in regnum successit.

(o) Hen. Huntingd. Hist. lib. 5. p. 355. Eadredus frater Eadmundi regis, filiusque regis Adelstani (but that is a Mistake, he being only Athelstan's Brother) fratri suo successit in regno.

(p) Rog. de Hoveden. Annalium pars prior p. 423. anno ab incarnatione Domini 946.—cui (i. e. Eadmundus) Edredus frater suus in regnum successit.

(q) Chronic. Johannis Bromton col. 862. mortuo verò dicto Edmundo rege, Edredus frater suus filiusque regis Adelstani, (the same Mistake with Henry of Huntington) eò quod pueri Edwinus & Edgarus filii Edmundi præ immaturâ ætate adhuc regnare non poterant, sibi in regno successit, &c.

(r) Mat. Westmonast. Flor. Histor. p. 188. Defuncto itaque Eadmundo, & apud Glastoniam sepulto, Eadredus frater ejus, in Kingstona villa regia, regni diadema à B. Othone Archiepiscopo Cantuar. suscepit 17. Kal. Sept. Reliquit quoque duos filios hæredes legitimos, Eadwinum & Edgarum, qui repugnante illegitimâ ætate patri succedere non valebant.

(t) W. Malmesb. de gest. Reg. Angl. l. 2. c. 7.

fol. 55. anno Dominicæ incarnationis 955. Edwius filius Eadmundi fratris Æthelstani superioris Regis, regno potitus tenuit annis quatuor.

(v) Sim. Dunel. de gest. Reg. Ang. col. 157. anno DCCCCLVII. Rex Anglorum Edwius, quoniam in commisso regimine insipienter egit, à Mercensibus & Northymbrensisbus contemptus, relinquitur, & suus germanus Clyto Eadgarus, ab eis rex eligitur; sicque res regum sejuncta est, ut flumen Tamenſe regnum disterneret amborum. The very same Words are in Flor. of Worcester, which confirms what I have said of these two above.

(x) Roger. de Hoved. Annal. pars prior p. 423. anno 957. rex Anglorum Edwius, &c. as it is in Simeon of Durham.

Chronic. Johan. Bromton. col. 863.—Unde Northumbrenses & Mercenses ipsum regem Edwinum pro mala vita sua expulserunt, & fratrem suum Edgarum xvi. ætatis suæ anno in regem levaverunt; sicque actum est ut flumen Thamesiæ res amborum regum divideret.

Ingulphi Histor. p. 41.—Mox Dei judicio de majore parte regni sui mutilatus.

(y) Florent. Wigor. Chronic. p. 605.—Rex Mercensium Eadgarus, ab omni Anglorum populo electus, &c. Simeon Dunel. de gest. Reg. Angl. col. 157. rex West-Saxonum Edwius IV. annis regni sui peractis defunctus.—Cujus regnum suus Germanus rex Mercensium Eadgarus, ab omni Anglorum populo electus. Indeed W. of Malmesbury, who was senior to Simeon, when he mentions Edgar's accession to the Crown, calls it, Regnum adipiscens, getting or obtaining the Kingdom. De gest. reg. Anglor. lib. 2. c. 8. p. 55.

(2) And here it may be added for a Corollary, that *Edgar's* Kinsman and Contemporary *Ethelward* mentions no Election of *Edgar* at that time.

The death of the Pacifick King *Edgar* occasion'd great stirs about the Succession in the Nation. (a) 'Tis true, *Ingulphus*, the most antient of our Historians, only mentions the Succession of the elder Son of *Edgar*, *Edward*, to the Crown, without descending to particulars; but *Florentius* (b) of *Worcester*, *W. of Malmesbury*, and *Simeon* of *Durham*, speak of great Dissensions concerning the Succession after King *Edgar* slept with his Fathers. Stirs after
Edgar's
Death.

Nor do all those three Historians agree in their Narratives of these Quarrels, which they say were carry'd on by the Archbishops, *Dunstan* and *Oswald*, with the rest of the Bishops, and several of the Nobility, for *Edward* the elder Son of *Edgar*, and by a Party of the Grandees, headed by *Edward's* Step-mother, in favour of her Son *Ethelred* then scarce seven Years old: in which Contest the Episcopal Party prov'd Conquerors, having Right on their Side; and accordingly *Edward* was receiv'd and crown'd King. Among these Historians, both *Florentius* and *Simeon* positively say, That there was a warm Contention about the Election of a King among Persons of the greatest Quality; and that therefore the Bishops and many Nobles gather'd together and chose *Edward* King, as his Father had commanded, and consecrated and anointed him upon that Election. Where by the way I cannot but shew my wonder at that Clause, As his Father had commanded; as if either his Father's last Will could alter the Succession of the Crown, or if without it even an Hereditary Succession could not be obtain'd. Indeed *W. of Malmesbury* junior to *Florentius*, says not one word of an Election, but that there was a great bustle about it. But after this the Throne becoming vacant by the murder of this *Edward* (from that and his Piety stil'd the *Martyr*) occasion'd by his Step-mother *Elfrid*, (c) his younger Brother *Ethelred* succeeded him * in the Kingdom.

His turbulent and unfortunate Reign being ended, and his eldest Son (d) *Edmund*, from strength of Body and courage of Mind call'd *Ironside* (tho born (e) of an obscure Woman, as *W. of Malmesbury* informs us) succeeded his Father (saith † *Ingulphus*) by the Election of the *Londoners*, and all the *West-Saxons*. (f) *Florentius* of *Worcester* (for I generally give you the Historians in that order wherein they wrote; he, I say) tells us, That the *Londoners*, and part of the Nobility, which were in that City at the death of *Ethelred*, with one Consent advanc'd and made him King, while the Bishops, Abbots, Dukes, and the other Nobles being gather'd together at *Southampton*, had with one Consent chosen *Canutus* the *Dane* (*Edmund* and the Kingdom's great Enemy) for their Lord and Sovereign, having

(2) *Ethelw. Chronic. lib. 4. c. 8. p. 849.* Quin successor ejus Eadwig. in Regnum, &c. Id. ibid. c. 9. denique Eadgar coronatur in regnum, rex admirabilis, &c.

(a) *Ingulphi Historia, p. 52.* Sub præfato Rege Edwardo, qui patri Edgaro successerat in regnum, &c.

(b) *Flor. Wigor. Chronic. p. 607.*—De rege eligendo magna inter regni primores oborta est dissensio. Quidam namque regis filium Eadwardum, quidam verò fratrem illius elegerunt Æthelredum. Quam ob causam Archipræsules Dunstanus & Oswaldus, cum corepiscopis, abbatibus, ducibusque quamplurimis in unum convenerunt, & Eadwardum, ut pater ejus præceperat, elegerunt: Electum consecraverunt, & in Regem unxerunt. —These very words, except Eadwardum for Edwardum, and Egelredum for Æthelredum, are in *Simeon of Durham, Histor. de gest. reg. Anglor. col. 160.* Good reason then had I to call *Simeon, Florentius's Ape.* *Wil. Malmesb. de gest. reg. Angl. l. 2. c. 9. p. 60.* Anno Dominicæ incarnationis non-gentesimo septuagesimo quinto Eadwardus filius Edgari regnare cœpit. —Illum Dunstanus, & cæteri Episcopi consentanei regali culmine sublimarunt contra voluntatem quorundam, ut aiunt, optimatum & novercæ, quæ vix dum. 7. annorum puerulum Æthelredum filium suum provehere conabatur, ut ipsa potius sub ejus nomine imperitaret.

(c) *Id. ibid. p. 61.* Mulier novercali odio, viperum dolum ruminans, ut nec nomen regis filio deesset, insidias privigno struere, quas hoc modo consummavit.

* Qui successit frater suus Ethelredus. *Ingulphi p. 54.*

(d) *Will. Malmesb. ibid. c. 10. p. 71.*—Juvenis, magni roboris, & animo & corpore, & propter hoc ab Anglis *Ironside*, id est ferreum latus, nuncupatus.

(e) *Ibid.* erat iste Edmundus non Emmâ natus, sed ex quadam aliâ, quam fama obscura recondit.

† *Ingulphi Histor. p. 57, 58.* Cui successit in Regnum Londonensium & West-Saxonum electione filius ejus primogenitus Edmundus, ferreum latus pro suâ fortitudine cognominatus.

(f) *Florent. Wigor. Chronic. p. 616, & 617.* post cujus mortem Episcopi, Abbates, Duces, & quique nobiliores Angliæ, in unum congregati, pari consensu, in dominum & regem sibi Canutum elegere, & ad eum in *Suthamtoniâ* venientes, omnemque progeniem regis Æthelredi, coram illo abnegando repudiantes, pacem cum eo composuere & fidelitatem illi juravere. —At cives Londonienses, & pars nobilium, qui eo tempore consistebant *Lundoniæ* Clitonem Eadmundum unanimes consensu in regem levavere.

renounc'd

Consultati-
on about
naming a
Successor.

renounc'd the whole Race of *Ethelred*. Will. of *Malsbury* says (g) only, That the *Londoners* proclaim'd *Edmund* King. *Simeon* of (b) *Durham* uses the same Terms that *Florentius* of *Worcester* doth. Indeed (i) *Ailred* Abbot of *Rival* tells us a fine Story in his *Life of Edward the Confessor*, viz. That King *Ethelred* having in a Convention or Assembly of the States (for there was both a vast concourse of Prelats, of Nobles and Commons) demanded advice whom he should appoint for his Successor, the Matter was long in suspense, by reason of the different Opinions in the Convention; some voting, That *Edmund* ought to be prefer'd before all others, by reason of his invincible strength of Body; others again judging it more safe to have (his half-Brother) *Alfred* advanc'd to that Dignity upon the account of his *Norman* Extract. At last that Child, which was yet in the Queen's Womb (sc. *Edward the Confessor*) was elected for King, and being yet unborn was prefer'd in that Assembly before his elder Brothers. To this, both the King gives his willing Assent, and Fealty is by the Nobles freely sworn to him who was yet unborn, and to him of whose Birth they could not be assur'd.

No Heredi-
tary Suc-
cession ob-
serv'd.

Here is an History as miraculous as the greatest Action of that Prince, which the Author pretends to write of; and which I shall leave to the Readers consideration, without any other Remark than this, That if it be true (which depends wholly upon the Credit of the Relater, who, I believe, is single therein) it will shew, how little strict Hereditary Succession was valu'd in the middle Ages among the Saxons, when an elder Brother was excluded, both by the King, his Nobles and Commons, from inheriting the Crown. But whether this Relation be true or false, 'tis most certain it was not observ'd, and that even by the Testimony of the same Author, (k) who saith in another place, That *Ethelred* died at *London*, leaving his Son *Edmund* Heir of his Calamity, and of his Kingdom. To conclude this Point, (l) *Henry* of *Huntington* saith in plain terms, That *Edmund Ironside* was chosen King after his Father's death; and (m) *Roger* of *Hoveden*, and (n) Abbot *Bromton*, sing to the same Tune with *Florentius* and *Simeon Dunelmensis*, viz. That at the same time that *Edmund* enter'd the Throne of his Saxon Progenitors, his Rival *Canute*, the Danish King and his Invader, was own'd Sovereign of a great part of the Nation, which swore Allegiance to him, and renounc'd the whole Race of *Ethelred*: And who (o) at last by the murder of magnanimous *Edmund*, through the means of his treacherous Brother-in-law Duke *Edric*, as *Ingulphus* informs us, obtain'd the whole Kingdom, contrary to all Right; (p) since *Edwy* and *Edward*, two Sons of *Edmund* (and those the true Heirs of the Saxon Monarchy) were then alive, and whom he afterwards sent abroad to the King of *Sweden* to be slain.

Might and
not Right
often pre-
vail'd.

Thus it was not Right but Might which prevail'd. And the longer and sharper Sword cut through all Titles and Pretences of a lineal Succession; *Canutus* having no Colour or Pretence to the *British* Crown, but what his conquering Army made him: His Election at the death of *Ethelred* and of *Edmund* being gain'd thereby; which

(g) Will. Malmesb. de gest. reg. Angl. l. 2. c. 10. p. 72. Oppidani Edmundum in regem clamant.

(h) Sim. Dunelm. Hist. de gest. reg. Ang. col. 173. agrees exactly with Florentius, Ægelred being only chang'd for Ethelred.

(i) Ailredus (five Ethelredus) Abbas Rievalis de vitâ & miraculis Edwardi Confessoris, Londini 1652. col. 372. — Cum igitur gloriosus rex Ethelredus ex filiâ præclarissimi Comitum Thoreti (in this, he differs from W. of Malmesbury) filium suscepisset Eadmundum cognomento ferreum latus, ex reginâ autem Emmâ Aluredum, beatus Edwardus inter viscera materna conclusus utrique præfertur — Fit magnus coram rege Episcoporum Procerumque conventus, magnus plebis vulgique concursus, deinde rex successorem sibi designare desiderans, quid singulis, quidve omnibus videretur explorat. Pro diversarum diversâ sententiâ res pendebat in dubio. Alii enim Eadmundum, ob invictissimum robur corporis cæteris æstimant præferendum: Alii ob virtutem Normannici generis Aluredum promovendum tutius arbitrantur — Utero adhuc clauditur & in regem eligitur, non natus natis præfertur, & quem nec dum terra suscepit,

terræ dominus designatur. Præbet electioni rex consensum, læti præbent proceres sacramentum, & inusitato miraculo in ejus fide jurarunt, qui utrum nasceretur ignorarunt.

(k) Id. Ethelredus de genealogia Regum Anglorum, Londini 1652. col. 363. — Londoniâ obiit, Edmundum filium suum laboris & regni relinquens hæredem.

(l) Henrici Hunting. Histor. l. 6. p. 362. Post quem Edmundus filius ejus est electus in regem, qui cognominatus est Ironside.

(m) Roger. Hoved. Annal. pars prim. p. 434. post mortem cujus, Episcopi, Abbates, Duces, &c. as it is in Florent. Wigor.

(n) Johannis Bromton Abbatis Jormalensis Chron. col. 903. defuncto rege Ethelredo, Episcopi & Abbates, & quique terræ nobiliores omnem ejus progeniem abnegantes, Kanutum pro rege apud Suthamptoniam recognoverunt, &c.

(o) Ingulphi Histor. p. 58. perfidi Ducis Edrici prædicti insidiis Edmundus occisus est, & omnium consensu Cnutus super totam Angliam coronatur.

(p) Will. Malmesb. de gest. Reg. l. 2. c. 10. p. 73. Filii ejus Edwyus & Edwardus missi ad regem Suevorum, ut perimerentur, &c.

the fall'n Family of the *Saxon* Kings could not oppose, (g) and to which the Treachery of some *English* Grandees did not a little contribute, and thereby facilitated his Advancement to the *English* Throne.

So that without strange wire-drawing, neither those who strictly plead for an Hereditary, nor they who espouse the Cause of an Elective Monarchy, can justly lay claim to this Act with *K. Canute* as a Precedent: When on one side the Royal Line of *Saxon Cerdic* was wholly excluded; and on the other, a Conqueror commanded (at least over-aw'd) the generality to give him their Suffrages.

But his Conquests and Reign being concluded by that Conqueror of all Mortals, *Death*, we shall again find the right Heir put from the Possession of the Crown by the same high Hand which had settled it before upon King *Canute*, when the Issue of King *Edmund Ironside*, the true and lawful Heirs of the Kingdom (who had been, as I have already mention'd, convey'd out of this Nation) and that of *Ethelred*, and Queen *Emma* his second Wife, and *Hardicanute*, were all set aside through the prevailing Power of *Harold* the elder Son of the last King, by (a) the Daughter of one Earl *Elfelm*, saith *Will. of Malmesbury*; altho according to *Florentius* (b) of *Worcester* he was, in the opinion of some (tho not of the Historian himself) the Son of neither, but the Offspring of a certain Shoemaker. Whatever he was, whether the Son of a Shoemaker, or (which I rather believe) the Son of *Canute*; 'tis certain he was prefer'd to all those Competitors, chiefly by the means of the *Danes*, whose Swords were the best Orators to perswade (or rather to compel) the Nation in that juncture to elect him: To effect which, the Citizens of *London* then almost degenerated, saith (c) *Will. of Malmesbury*, into *Barbarians*, by conversing so long with them, were not a little assistant. But in the Accession of this Prince to the Throne, as well as in that of his younger Brother, the Historians do mightily differ. I shall therefore give the Reader their various Sentiments, and in the order of Time wherein they were written, and let him determine which is in the right.

To begin then, *Florentius* (d) tells us, that this *Harold*, whom he styles King of the *Mercians* and *Northumbrians*, was chosen King by the Princes and all the People. And he seems to give us his (e) reason why that was effected, because he says, that several Nobles, and especially, as it was before said, Earl *Godwin* himself, a Man then of great Interest, were more devoted (tho that he judges unjust) to *Harold*, than to *Edward* and *Alfred*, the Sons of *Ethelred* by Queen *Emma*: Since they took it ill, that those two Princes came over out of *Normandy* (where they had long remain'd with their Uncle *Richard*) attended with a great number of *Norman* Soldiers to visit their Mother at *Winchester*. *Will. of Malmesbury* gives us a quite different account of the Matter, (f) saying indeed, That the *Danes* and Citizens of *London* (too near akin to them then in point of Manners) elected him for their King: But he withal adds, that the other *English* resisted this long, being more desirous to have one of King *Ethelred's* Sons (for the poor Children of his eldest Son

Harold's Title.

(g) Id. ibid. p. 72. Ita Edmundus unanimi clamore omnium superatus—*Florent. Wigor. Chronic.* p. 618. At ipsi juraverunt illi quod eum regem sibi eligere vellent, eique humiliter obedire, & suo exercitui vestigalia dare, & accepto pignore de manu suâ nudâ cum juramentis à principibus Danorum, fratres & filios Eadmundi omnino despexerunt. And *W. of Malmesbury saith of Canute's Accession to the Crown*, De gest. Reg. Angl. l. 2. c. 11. p. 73.—injustè quidem regnum ingressus, &c.

(a) *W. Malmesb. de gest. Reg. Angl. l. 2. c. 12. p. 76.* Anno dominicæ incarnationis millesimo tricesimo sexto Haroldus, quem fama filium Cnutonis ex filiâ *Elfelmi* Comitis loquebatur, regnavit, &c.

(b) *Flor. Wigor. Chronic. p. 622.* Haroldus verò dixit, se filium esse Canuti regis & Northamptonensis *Alfgivæ*, licet id verum esset minimè, dicunt enim nonnulli filium cujusdam satoris illum fuisse—Nos verò quia res in dubio agitur, de neutrorum geniturâ (*Swain's & Harold's*) quid certi scivimus definire.

(c) *W. Malmesb. de gest. Reg. Angl. l. 2. c. 12. p. 76.* Haroldus (ut supra) regnavit annis quatuor

& totidem mensibus. Elegêrunt eum Dani & Londoniæ cives, qui jam pene in Barbarorum mores propter frequentem convictum transiverant.

(d) *Flor. Wigor. Chron. p. 622.* Haroldus rex Merciorum & Northimbrorum, ut per totam regnaret Angliam (à principibus & omni populo) rex eligitur.

(e) Id. ibid. Innocentes Clitones *Alfredus* & *Edwardus*, *Æthelredi* quondam regis Anglorum filii, de *Normannia* (ubi cum avunculo suo *Richardo* manserant tempore longo) multis *Normannicis* militibus secum assumptis, in Angliam paucis transvecti navibus, ad suæ matris colloquium (quæ morabatur *Wintoniæ*) venêrunt. Quod indignè gravitèrque ferebant potentes nonnulli, quia (licet injustum esset) Haroldo multo devotiores extitère quàm illi, maximè (ut fertur) Comes *Godwinus*.

(f) *W. Malmesb. de gest. Reg. Angl. lib. 2. c. 12. p. 76.* Angli diu obstiterunt—*Godwinus* Comes resistentes umbone nominis sui aliquandiu dispulit; sed tandem vi & numero impar cessit violentiæ.

Edmund, tho the true Heirs, were never thought on) who were then in *Normandy*, or *Hardicanute*, that King's Son by Queen *Emma*, who was then in *Denmark*, to be their King; among whom Earl *Godwin* long oppos'd *Harold's* Election, prop'd up therein by the greatness of his Name; but he (as well as the rest) was forc'd to submit to Power and Number, and *Harold* thereby gain'd his Point. *Simeon* of *Durham* varies yet further, for (g) he and his (b) Imitator *Roger Hoveden* affirm, that *Canute*, before his Death, made or plac'd his Son *Hardicanute* King of the *Danes*, and appointed *Harold* to be King of this Nation. Again, *Henry* of *Huntington* (i) tells us, that *Harold* was elected King of this Country in a great Convention at *Oxford*, where Earl *Leofrick*, and all the Grandees on the North side of *Thames*, together with the *Londoners*, chose *Harold* to keep the Kingdom for his Brother *Hardicanute*, then absent in *Denmark*; but Earl *Godwin* (Father of that *Harold* who succeeded *Edward the Confessor*) and the *West-Saxon* Nobility oppos'd this, but in vain. And this also was agreed to, That Queen *Emma*, *Hardicanute's* Mother, with the Family of the deceased King, should preserve *West-Saxe* in her Son's behalf, and Earl *Godwin* was to be their General.

I cannot here forbear to shew my dislike of this Relation, not only as incoherent in it self, but disagreeable to Sense and Reason, viz. That *Harold* should be chosen King to preserve the Kingdom to his younger Brother, and yet his Stepmother, Queen *Emma*, to have *West-Saxe* assign'd her for the same purpose: Or, on the other side, that an elder Brother, design'd for the *English* Crown (as *Simeon* of *Durham* and *Roger Hoveden* affirm) should meet with so great an opposition from Queen *Emma's* Party, and that too when her Son, who was to be King of *Denmark*, was absent there, and whose absence (k) and long stay, as he there adds, was the occasion of his rejection here, after he had been desired before to come over hither.

To conclude this Point, I shall bring up the first Evidence, in point of Time, last; for I forgot to mention the Narrative which *Ingulphus*, the most antient (l) Historian of them all who treat on this Subject, gives us hereof; and he tells us, that (m) *Harold* and *Hardicanute*, the two Sons of *Canute*, contending about the Kingdom, thereby went near to kindle a War in it: For the *Danish Londoners* chose *Harold* the Son of *Elfgive* of *Northampton*, the fictitious Issue (but only so by Slander) of King *Canute*, for their Sovereign; but the *English*, with the whole Land beside, as he expresses it, chose (he should have said, would have chosen) either *Edward* the Son of King *Ethelred*, or at least *Hardicanute* the Son of King *Canute*. So mightily do the Historians of elder Times clash in their accounts of the Ages preceding theirs; and so little was either the true hereditary Succession of the Crown minded, or the last Wills and Testaments of the foregoing Kings (upon which some have laid so much stress) valued in those Times of Confusion and Violence. For however it was manag'd, it cannot be deny'd but that the right Heir was excluded in the Succession of this *Harold*: as he was also in that of *Hardicanute* when *Harold* gave way to Fate; the Sons of *Ethelred* (and those of *Edmund Ironside* being Exiles, were not so much as thought on then in point of Succession) being set at nought, more upon the account of their Father's slothfulness (then (n) fresh in

(g) *Simeon Dunelm. Histor. de gest. Reg. Angl. col. 179.* Canutus rex Anglorum ante suum obitum—super Danos verò Hardecnutum suum & Emma reginæ filium regem locavit. Haroldum verò filium suum ex Hamtunenfi Elgiva procreatum regem Anglorum constituit.

(b) *Rog. Hoved. Annal. par. prim. p. 437.* Canutus rex Anglorum ante suum obitum—super Danos verò Hardecnutum, &c. *as in Simeon Dunelm.*

(i) *Henric. Hunting. lib. 6. p. 364.* Haraldus filius Cnut regis & Ailivæ filiæ Alfelmi ducis electus est in regem. Fuit namq; placitum magnum apud Oxenford; ubi Leofricus Consul, & omnes principes ex Boreali parte Tamefis cum Londoniensibus elegerunt Haraldum, ut conservaret regnum fratri suo Hardecnut, qui erat in Dacia. Godwinus verò Consul pater Haroldi postea regis, & principes West-Sexe cœperunt contradicere, sed non profuit—Consilium ergo inierunt, quod Emma regina cum regis defuncti familia conservaret West-Sexe apud Wincestre in opus filii sui: Godwinus vero Consul Dux eis esset in re militari.

(k) *Sim. Dunelm. de gest. reg. Anglorum, col. 179.*—Hardecanutus verò quia in Danemarcia moras innexuit, & ad Angliam, ut rogabatur, venire distulit, penitus abjicitur.

(l) *Who was Secretary to William the Conqueror. Ingulphi Histor. p. 73.* Ecce inclytus nunc Rex noster Angliæ, tunc adhuc Comes Normanniæ, Wilhelmus—Londonias adventabat—factus ibidem scriba ejus, &c.

(m) *Id. ibid. p. 61.* Cujus (i.e. Canuti) duo filii Haroldus & Hardecnutus tum de regno discerpantes, videbantur bellum maximè parturire. Nam & Dani Londonienses Haroldum filium Elfgivæ Northamptoniæ, sed diffamatum fictum filium Regis Cnuti; Angli verò cum tota cætera terra potius Edwardum filium Regis Ethelredi, seu saltem Cnuti Regis filium Hardecnutum ex Emma Regina genitum eligeabant.

(n) *W. Malmesb. de gest. Reg. Angl. lib. 2. c. 12. p. 76.* Nam filii Ethelredi jam ferè omnibus despectui erant, magis propter paternæ socordiz memoriam, quàm propter Danorum potentiam.

the *Englishmens* Minds) than that of the *Danish* Power; so that *Hardicanute* was made King by almost the universal Consent both of the *English* and the *Danes*, as saith *Will. of Malmesbury*. And (o) *Florentius of Worcester*, and (p) *Sim. of Durham* tells us, That the chief Men of almost the whole Nation had conceiv'd so great an opinion of him, that they sent Embassadors to him to entreat him to come and undertake the Government, and that accordingly at his coming he was receiv'd with an universal Joy, and anon plac'd on the Throne. And (q) *Henry Archdeacon of Huntington* assures us, That he was chosen King both by the *English* and *Danes*. And this Election of him was further'd through the universal Opinion of his Virtue; in which he grossly deceiv'd them all, his following Reign being an absolute Contradiction thereto. But his Debaucheries having hasten'd his Death, a period was thereby put to the *Danish* Tyranny in this Nation, and then it was (r) publickly decreed, That all the *Danes* should be expell'd the Kingdom; yet the true Heir, viz. *Edward* the elder Son of the famous *Ironside*, was again neglected, and (his half Uncle) *Edward*, surnam'd the Confessor, advanc'd to the Regal Dignity.

I need not here touch upon that fine Monkish Dream of *Ailred* Abbot of *Rival* already mention'd, which would shew us the Election of *Edward* the Confessor when in his Mother's Womb; and which I call a Dream, because I find nothing like it in any of the old Historians (three of which are more antient than himself) viz. in *Ingulphus*, *Florentius of Worcester*, *Will. of Malmesbury*, *Sim. of Durham*, or *Henry of Huntington*; and if it had been true, that Election had been vacated by the interposition of *Edmund Ironside*, and the Succession of three *Danish* Kings.

To omit then this Narrative, which, to me at least, seems too trivial a Plea for any to insist upon, *Edward*, Son to King *Ethelred* by his Wife Queen *Emma*, which hath been already mention'd, was, as *Ingulphus* (s) who was then a Youth (t), and visited his Father at the Court, informs us, chosen King by all: But most especially through the Exhortation of Earl *Godwin*, whose Daughter that King afterwards espoused; and out of the Hope and Prospect of which Match that great but treacherous Earl stickled so much for *Edward's* Election. I call that Earl Treacherous (v), because he was the unhappy Instrument of *Alfred* that King's Brother losing his Eyes (x); and others say, of losing his Life. And that he was really indebted in part for his Elevation to the supreme Dignity, to Earl *Godwin* and *Livingus* Bishop of *Worcester*, is the Opinion (y) of *Florentius* too, who is the next Historian to *Ingulphus* in point of Time. Indeed *William* Monk of (z) *Malmesbury* tells us only, That he undertook the Kingdom. And yet, that the Reader may be ascertain'd that King *Edward* the Confessor was not the true Heir of the Crown by an hereditary Succession, we are given to understand by the (a) same Author, That when

Edward
chosen King.

(o) Flor. Wigor. Chronic. p. 623. Haraldus rex Anglorum obiit—Quo sepulto, procures ferme totius Angliæ, legatos ad Hardecanutum—ubi cum matre sua morabatur, mittentes, & se benefacere putantes, rogaverunt illum ut Angliam veniret, & scepra regni susciperet. Qui—gaudenter ab omnibus suscipitur, regnique folio mox sublimatur.

(p) Sim. Dunel. Hist. de gest. Reg. Angl. col. 180. Haroldus rex Anglorum obiit, &c. in the same words with Florentius, save that he hath Haroldus and sublimatur, for Haraldus and sublimatur.

(q) Henr. Hunting. Hist. lib. 6. p. 365. Hardecnut filius regis Cnut & Emmæ reginæ, veniens à Daciâ apud Sandwic, illico susceptus est, & electus in regem simul ab Anglis & Dacis.

(r) Chronicon Johannis Bromton Abbatis Jorhallensis col. 934. Procures igitur Anglorum, jam Dacorum dominio liberati—mortuo Hardecnou-to, omnes Danos à regno expulerant, eos pro perpetuo relegantes.

(s) Ingulphi Histor. p. 62. Post ejus obitum omnium electione in Edwardum concordatur, maxime cohortante Godwino Comite, &c.

(t) Id. ibid. cum patrem meum in Regis curiâ morantem adhuc puer inviserem, &c.

(v) Henr. Hunt. Hist. l. 6. p. 369. —God-

winus verò cum esset Consul fortissimus & proditor sævissimus, præcogitavit se Edwardo fratri minori & simpliciiori posse dare filiam suam in reginam. Hunc verò Alfredum, quia primogenitus erat, & magnæ probitatis, nullo modo filiam suam dignaturam prævidebat.

(x) Id. ibid. — Alfredum verò captum duxerunt in Ely, & oculos ejus eruerunt, & mortuus est. And Flor. Wigor. Chronic. p. 623. —pro nece sui fratris Alfredi, adversus Godwinum Comitem & Wigornensem Episcopum—Livingum exarsit ira magna.

(y) Flor. Wigor. Chron. p. 624. —Cujus frater Edwardus annitentibus maxime Comite Godwino, & Wigornensi præfule Livingo, Londoniæ levatur in regem.

(z) W. Malmesb. de gest. Reg. Ang. l. 2. c. 13. p. 79. Sanctus Edwardus filius Ethelredi suscepit regnum.

(a) Id. ibid. p. 93. Rex Edwardus pronus in senium quod ipse non susceperat liberos, & Godwini videret invalescere filios, misit ad Regem Hunnorum ut filium Edmundi Edwardum cum omni familiâ suâ mitteret. Futurum, ait, ut aut ille aut filii sui succedant regno hæreditario Angliæ: orbitatem suam cognatorum suffragio sustentari debere.

B b b b 2

this

this King saw old Age approach him apace, he sent to the King of *Hungary*, That he should send him his Brother *Edmund's* Son call'd *Edward*, together with his Family; for they had been kindly entertain'd by that King, after their Expulsion hence by *Canute*; and (b) as another Historian informs us, The *Hungarian* King had bestow'd his Niece *Agatha*, Daughter to his Brother *Henry* the Emperor of the *Romans* (or rather of *Germany*) on that *Edward* call'd the *Outlaw*, as being the true Heir of the *English* Crown. Pursuant to this Invitation of our *Edward* the Confessor, his Nephew *Edward* the *Outlaw* and his Family returns; (c) and the King declar'd, That either he (*i.e.* *Edward* the *Outlaw*) or his Sons should succeed to the hereditary Kingdom of *England*; which are the express words of *William* of *Malmesbury*. And who in that same place tells us, that he saw the Sons of Earl *Godwin* (whom he indeed hated tho he was his Father-in-law) grow strong, and that himself had no Children——Which Act of King *Edward* cannot, in my opinion, be judg'd, either as done in confidence of his Title by his Election to the Crown, or out of any fear of a Competitor on the other hand, as Persons of quite different Sentiments would strain it.

Right Line
excluded.

Moreover this Narrative doth not altogether agree with that of *Ingulphus* who liv'd at that Time. Unless the Reader will look upon him, altho an *Englishman*, bias'd in favour of *William* Duke of *Normandy* (afterwards King of *England* by the Name of the Conqueror) whose Secretary he sometimes was; for he says, (d) That King *Edward* the Confessor (whom (e) he allows to have much cherish'd and advanc'd the *Normans*, in whose Country he had been brought up) seeing *Edgar* the Son of *Edward*, the *Outlaw* lately deceas'd, not fit for Government, either as to Body or Courage; and withal, that the numerous wicked Family of Earl *Godwin* did daily encrease; he apply'd himself to his Kinsman *William* Duke of *Normandy*, and decreed, That he should succeed him in the Kingdom of *England*.

Here was an Exclusion of the right Heir with a Witness! a King who had no Title to the Crown by a lineal Descent, to give it away after his death, from one who had the best Title, and to one who was illegitimate, and consequently in strictness capable of none but what his long Sword could make him (as it did afterwards) to enact such a Decree! Which Grant or Will of his, if allow'd for good, will certainly destroy the Foundation of all Monarchy, whether Hereditary or Elective.

But whether this which *Ingulphus* relates was in every Circumstance true or no, this however cannot reasonably be deny'd, That King *Edward's* Fears of the potent Family of Earl *Godwin* were not altogether groundless; for upon *Edward's* death, *Edgar* the right Heir of the Crown was again excluded from it, and *Harold*, the Son of the last mention'd Earl *Godwin* (a very valiant Man, but who had not the least shadow of a Title to the Royal Dignity) thrust himself into the Throne, as * *Ingulphus* saith, into the Regal Throne, being solemnly crown'd by *Aldred* Archbishop of *York*.

This Testimony of *Ingulphus* who was then alive, ought to be the sooner believ'd, if he had not been, as I take it, at that very juncture Secretary to *Harold's* Competitor, *William* Duke of *Normandy*, and upon whose account he might be a little bias'd against *Harold*, who had sworn to assist Duke *William* in King *Edward's* Life time (f) to gain this Crown when his Cousin *Edward* died.

(b) Johan. Bromton Chronic. col. 907.—
Cumque rex Hungariæ infantes vidisset, &c.—
Edwardo—qui in Chronicis dictus est Edwardus
relegatus, Agatham filiam Germani sui Henrici Imperatoris Romani, tanquam vero Angliæ hæredi, matrimonio copulavit.

(c) Futurum, ait, ut aut ille aut filii sui succedant, &c. See Note (a).

(d) Ingulphi Histor. p. 68. Rex Edwardus senio jam gravatus, cernens Clitonis Edwardi nuper defuncti filium Edgarum regio solio minus idoneum tam corde quàm corpore, Godwinique Comitum multam malamque sobolem quotidie super terram crescere, ad cognatum suum Wilhelmum Comitem Normanniæ animum apposuit, & eum sibi succedere in regnum Angliæ voce stabili sancivit.

(e) Id. ibid. p. 62. Rex autem Edwardus natus in Anglia, sed nutritus in Normannia—attrahens de Normannia plurimos, quos variis dignitatibus promotos in immensum exaltabat.

* Id. ibid. p. 68. In crastino verò regii funeris, Comes Haroldus contra suum statum & iurandum contemptor præstitæ fidei, ac nequiter oblitus sui Sacramenti, throno Regio se intrusit, per Archiepiscopum Eboracæ Eldredum solemniter coronatus, & regnavit mensibus novem.

(f) Mat. Westmonast. Flores histor. p. 218. Tunc Haraldus, ut apud Ducem Gulielmum uberio-rem gratiam inveniret, castellum Doroberniæ, quod ad jus suum spectabat, & post mortem regis Edwardi regnum Angliæ sacramento firmavit.

We have a quite different Account of *Harold's* accession to this Throne from *Florentius*, (g) who plainly tells us, That upon King *Edward's* Interment, *Harold* the Viceroy, Son of Duke *Godwin*, whom the King had elected for his Successor before his death, was chosen to the Royal Dignity by the Grandees of the whole Kingdom; and was accordingly consecrated thereto by *Alfred* Archbishop of *York*. *William* of *Malmesbury* on the other hand, tho Junior to *Florentius*, seems to side in his Narrative with that of *Ingulphus*; (b) telling us, That *Harold* took the Diadem by force: Altho he adds, that the *English* affirm, That it was granted to *Harold* by the King; I suppose he means by *Edward* the Confessor, which notwithstanding that Historian seems not to believe, but judges it urg'd by them in their own Excuse. And grant it had been true, *Edward* the Confessor (to whose Will all the Competitors pretended) had no Right to transfer the Crown of himself, as hath been once already affirm'd. And that too, when *Edgar Adelyn* the true Heir of the Crown, and for whom (i) some endeavour'd to gain the Kingdom, as to whom it was due by Hereditary Right, was alive—To proceed, with *William* of *Malmesbury* doth *Henry* of *Huntington* (k) seem to vote; for he saith, That some of the *English* endeavouring to advance to the Kingdom *Edgar Adeling*, *Harold* trusting in his Strength and Kindred, invaded the Regal Diadem. Indeed (l) *Simeon* of *Durham* and his (m) Imitator *Roger Hoveden* do side with *Florentius*, in affirming, That *Harold* was design'd King by *Edward's* Will, and chosen for such by the Nobility of the whole Kingdom. To turn the Tables again, (n) *J. Bromton* Abbot of *Joreval* assures us, on the other side, That upon the death of King *Edward* the Confessor, some of the *English* Nobility attempted to make *Edgar* King. But *Harold* Son of Earl *Godwin* being confident in his own Strength and Kindred, suddenly, in an unlucky Hour, invaded the Regal Diadem, and, as some say, crown'd himself at *Westminster*. All which Allegations, however different in other respects, do unite and agree in this, That by *Harold's* accession to the Crown, the Hereditary Succession thereto seems to have been then laid aside by the major part of the Nation (o). And indeed *Harold* was the only Person, who from King *Egbert's* Time was possessor of the *English* Throne, without being descended of the Royal Blood of *Cerdic*, (p) excepting the three *Danish* Princes.—For in all other Deviations from the direct Line, still the Regal Family was had in consideration, so that one or other was selected out of it to sit upon the Throne of his illustrious Ancestors.

Harold's accession to the Crown, how.

And even in this case of *Harold*, if we listen to the Discourses made by the two antient Historians, *Ingulphus* and *W. of Malmesbury*, *Harold* attain'd not to that high Dignity by Election, but by Force; and consequently cannot in a strict sense be produc'd as an Example of the former.

Deviations from the right Line frequent.

(g) Florent. Wigor. Chronic. p. 633. Quo (i. e. Edwardo) tumultato, subregulus Haraldus, Godwini Ducis filius, quem rex ante suam decessionem regni successorem elegerat, a totius Angliæ primatibus ad regale culmen electus, die eodem ab Aldredo Eboracensi Archiepiscopo in regem est honorifice consecratus.

(b) W. Malmesb. de gest. reg. Angl. l. 2. c. 13. p. 93. Recenti adhuc regalis funere luctu, Haroldus ipso Theophaniæ die exorta à principibus (I think it should be read extorta) fide arripuit diadema, quamvis Angli dicant à Rege concessum: Quod tamen magis benevolentia quam judicio allegari existimo, ut illi hæreditatem, &c.

(i) Ethelred. Abbas Rievallis de genealog. reg. Angl. col. 366. Quidam Edgarum Edeling, cui regnum jure hæreditario debebatur, regem constituere moliantur.

(k) Henric. Huntingd. histor. lib. 6. p. 367.—In vigilia Epiphaniæ rex Edwardus mundo decessisset—Quidam Anglorum Eadgar Adeling promovere volebant in regem. Haroldus verò viribus & genere fretus regni diadema invasit.

(l) Simeon. Dunelm. Histor. de gest. Reg. Angl. col. 193. anno MLXVI. Anglorum decus pacificus rex Edwardus Ethelredi regis filius—mortem obiit—Quo tumultato, subregulus Haroldus, &c. as it is above, in Note (g) from Florentius.

(m) Rog. Hoved. Annal. par. prior p. 447.—Quo tumultato, subregulus Haroldus, &c. in the same words that it is in Florentius and Simeon.

(n) Johan. Brompton Chronic. col. 957, & 958.—Sancto Edwardo Rege & Confessore mortuo, quidam Anglorum magnates Edgarum Adelynge filium Edwardi filii Regis Edmundi Ireneside in regem promovere moliebantur—Haraldus Comes filius Godwini viribus & genere fretus—regni diadema sinistro omine illico invasit—Qui quidem Haraldus, ut quidam tradunt, seipsum apud Westminsterium coronavit.

(o) Which, notwithstanding, if we may believe William of Malmesb. (de Wil. l. 1. 3. p. 99.) was long in suspence what to do; whether to submit themselves to Harold, William or Edgar. Rex Edwardus fato functus fuerat, Anglia dubio favore nutabar, cui se rectori committeret incerta, an Haroldo, an Willielmo, an Edgardo.

(p) Matthæi Westmonast. flores Historiarum, p. 226. Pacificus igitur rex Eadwardus Anglorum decus, regis Æthelredi filius—pro regno temporali commutavit æternum.—In hoc denique rege linea regum Angliæ defecit, quæ à Cerdico primo West-Saxonum rege ex Anglis, quingentis & septuaginta uno annis, non legitur interrupta, præter perpaucos Danos, qui peccatis exigentibus gentis Anglorum, aliquandiu regnaverunt.

His overthrow by Duke *William* (made more easie by the embarrasments this Nation had undergone, thro the late Invasion thereof by the (p) *Norwegians*, assisted therein by *Harold's* Brother *Tost*) and his consequent Death made a sad and strange Change in the Scene of the *English* Affairs; for the *English* in that fatal Battel (where their King *Harold*, and the Strength and Flower of the Nation fell by the Hand of *William* and his *Normans*) receiv'd so great a Defeat, and were thereby so much weakned, that tho after that great Slaughter (q) some chose *Edgar* for their King, whom *Florentius* (r) names in a particular manner, viz. the Earls *Edwin* and *Marcar* (whose Sister the last King *Harold* had married) *Alfred* Archbishop of *York*, and the Citizens of *London*: I say, tho all these, upon the first News of the great Defeat (from which the two Earls had withdrawn before with their Dependents) came to *London*, and seem'd willing to advance the late mention'd *Edgar* to the Throne, and promis'd to fight for him; yet the two Earls withdrawing their Assistance from those who were ready to engage in that Quarrel, and returning home with their Forces, that Design soon fell to the ground. In the mean time *William* Duke of *Normandy*, justly from his Victory and ensuing Fortunes stil'd the Conqueror (s), went burning and destroying all before him, (k) as appears from *Florentius* of *Worcester*; till *Alfred* Archbishop of *York*, *Wulstan* Bishop of *Worcester*, *Edgar* *Adeling*, the Earls *Edwin* and *Marcar*, and the chief of the *Londoners*, with several others, met and submitted themselves to him, and swore him Allegiance. Notwithstanding which, he permitted for a while his Army to burn Towns and commit Rapines, even tho he had before made a Covenant with them.

Saxon Line
rejected.

By this fatal Tragedy, the Royal Blood of the *Saxons* was not only rejected from then reigning over this Nation, but all things, as some Men hold, were turn'd topsie turvy, and the Succession fix'd upon another Basis, by that *William*, who (l) being illegitimate, had no true Right either to *England* or *Normandy*. We will then make a stand, and view this pretended new Fabrick.

This conquering Prince, who (as I said) had no Right to the Crown of *England*, and which by (m) the Confession even of his Adversary *Harold*, could not be alie-

(p) Ingulphi Hist. p. 69. — Haroldus rex Norwegiæ, cui prædictus Tostius se conjunxerat, &c.

(q) Wil. Malmesb. de gest. reg. Angl. l. 2. c. 13. p. 93. Eadgaro, qui post occisionem Haroldi à quibusdam in regem electus est, & vario lusu fortunæ, nunc pene decrepitem diem ignobilis ruri agit.

(r) Flor. Wigor. Chronic. p. 634. Cujus (i. e. Haroldi) morte audita, comites Eadwinus & Marcarus (qui se cum suis certamini subtraxere) Londoniam venere, & sororem suam Alarithiam reginam sumptam ad civitatem Legionum misere. Aldredus autem Eboracensis Archiepiscopus, & iidem Comites cum civibus Londoniensibus, & Butsecarlis, Clitonem Eadgarum, Eadmundum ferrei lateris nepotem, in regem levare voluerunt, & cum eo se pugnam inituros promisérunt: sed dum ad pugnam descendere multi se paraverunt, Comites suum auxilium ab eis retraxerunt, & cum suo exercitu domum rediérunt.

(s) I do admire that the learned Sir Hen. Spelman, in his Glossarium Archæologicum, edit. Londini, 1664. p. 145. should say, Gul. I. Conquestor dicitur qui Angliam conquirit, i. acquisivit, purchased, non quod subegit; when John Bromton Abbot of Joreval tells us, that one sung thus of the Conqueror,

Dux Normannorum Willelmus vi validorum
Rex est Anglorum, bello conquestor eorum.

In Chronic. Joh. Bromton, col. 962. Where William is said to be the King of the stout English by Force, and Conqueror of them in War; which is far different from a Purchaser of the Nation, and consequently very opposite to Sir Henry Spelman's Interpretation.

(k) Florent. Wigor. Chronic. p. 634, & 635.

Interea Comes Gulielmus Suth-Saxoniam, Cantiam, Suthamptonensem provinciam, Suthregiam, Middle-Saxoniam, Herefordensem provinciam devastabat, & villas cremare, hominesque interficere non cessabat, donec ad villam quæ Beorcham nominatur veniret. Ubi Alredus Archiepiscopus, Wulstanus Wigornensis Episcopus, Clito Eadgarus, Comites Eadwinus & Marcarus, & de Londoniâ quique nobiliores, cum multis aliis ad eum venerunt, & datis obsidibus illi deditionem fecerunt, fidelitatemque juraverunt. Cum quibus & ipse fœdus pepigit, & nihilominus exercitui suo villas cremare & rapinas agere permisit.

(l) Gul. Neubrigenfis Rerum Anglic. l. i. c. i. p. 1. Antverpiæ 1567. Guilielmus cognomento Nothus Dux Normannorum Haraldo Regi Anglorum bellum intulit, &c. Et id. ibid. p. 3. dormivit ergo cum patribus suis singulare Nothorum decus, &c.

(m) Wil. Malmesb. de Will. I. l. i. p. 95. Contra ille quæ dixi de puellæ nuptiis referens, de regno addebat (i. e. Harold) præsumptuosum fuisse: Quod absque generali senatus & populi conventu, & edicto; alienam illi hæreditatem juraverit. Proinde stultum sacramentum frangendum — Præterea iniquum postulat (this was Harold's answer to Duke William's Embassy to him about the Kingdom) ut imperio decedat, quod tanto favore civium regendum suscepit: hoc nec provincialibus gratum nec militibus tutum — In this William of Malmesbury seems to contradict what he had said before concerning Harold's accession to the English Throne, see (b) p. 557. which is no small fault in an Historian, who pretends so much to accuracy as he did. — Id. ibid. p. 173. Ego enim (saith he) veram legem secutus historiæ, nihil unquam posui, nisi quod à fidelibus relatoribus, vel scriptoribus addidici.

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nated without a general Convention and Sanction of the Senate, or Parliament and People thereof, having at *London* been crown'd by *Aldred* Archbishop of *York*; but not before he had solemnly promis'd and sworn (*n*), according to *Florentius Wigornienfis's* Account, at the Altar of *St. Peter*, as that Bishop requir'd of him, and that before the Clergy and People, That he would defend the Holy Church of God and all its Governors, That he would justly rule all the People committed or subject to his Charge, That he would make and keep good Laws, strictly forbidding all Rapines and unjust Judgments: I say, this Prince, notwithstanding this Coronation Oath which he had so solemnly taken, acted and observed nothing less than the performance thereof.

For as his *Normans*, (*o*) if we may believe his own Secretary *Ingulphus*, chang'd several Customs in this Nation; so he who had, by the confession (*p*) of the same *Ingulphus*, proclaim'd, That the excellent Laws of King *Edward* the Confessor should not only be held Authentick, but that they should for ever be inviolably kept thro the whole Kingdom of *England*, under most severe Punishments; and therefore commended them to his Justices of the Peace in the same Language wherein they were originally written, lest any should otherwise offend through Ignorance, and thereby not only incur the Danger of a severe Punishment, but also be thereby obnoxious to the King's Displeasure: This same King, I say, who had done all this (notwithstanding the Oaths which he took, and the Injunctions which he made) practis'd all manner of Severity against the *English*, as most of the antient Historians do declare at large (*q*).

Norman
Succession.

Why he was so kind (*r*) in preferring the *Normans*, and displacing or disarming the *English*, proceeded both from his ill Title, so often hinted (*s*), being no better than a pretended Donation of the *English* Crown to him by *Edward* the Confessor (whose Kinsman he stiles himself in his Confirmation of that King's Laws) and the frequent Insurrections of the *English*, who endeavour'd thereby to free themselves from that heavy Yoke of Oppression under which they sadly groan'd: To suppress which Commotions he made use of his surly *Normans*, whom he also rewarded

(*n*) *Florent. Wigor. Chronic. p. 635.* Ab *Aldredo Eboracensium* archiepiscopo in *Westmonasterio* consecratus est honorifice, prius (ut idem archipræful ab eo exigebat) ante altare sancti Petri Apostoli, coram clero & populo jurejurando promittens, se velle sanctas Dei Ecclesias ac rectores illarum defendere, necnon & cunctum populum sibi subiectum justè & regali providentiâ regere, rectam legem statuere & tenere, rapinas injustaque judicia penitus interdicere.

(*o*) *Ingulph. Histor. p. 70.* Et non tantum hunc morem, sed alias etiam consuetudines immutabant, &c.

(*p*) *Id. ibid. p. 88.* Attuli eadem vice mecum de *Lundoniis* in meum monasterium leges æquissimi regis *Edwardi*, quas Dominus meus inclytus rex *Willielmus* authenticas & perpetuas per regnum *Angliæ* inviolabiliter tenendas sub pœnis gravissimis proclamârat, & suis Justitiariis commendârat eodem idiomate, quo editæ sunt, ne per ignorantiam contingat, nos vel nostros aliquando in nostrum grave periculum contraire, & offendere ausu temerario regiam majestatem; ac in ejus censuras rigidissimas improvidum pedem ferre contentas sæpius in eisdem, &c. Vide *Chronicon Lichfeldense*, as quoted by *Roger Twisden, printed at Cambridg 1644. p. 158.* & *Leges Gulielmi Regis, Cantabrigiæ 1644. p. 136, &c.*

(*q*) *Florent. Wigor. Chronic. p. 635.* Post hæc *Marlesuein* & *Gospatric*, & quocque *Northumbrinæ* gentis nobiliores regis austeritatem devitantes, & ne sicuralii in custodiam mitterentur formidantes, &c.

—*Id. ibid. p. 136.* *Normannis* *Angliam* vastantibus in *Northumbria*, & quibusdam aliis Provinciis. Adeo fames prævaluit, ut homines quidam, caninam, cattinam, & carnem comederent humanam.

—*Id. ibid. p. 641.* *Gulielmus Rex* fecit describi omnem *Angliam*, quantum terræ quisque Baronum suorum possidebat, quot feudatos milites, quot carrucas, quot villanos, quot animalia, immò quantum vivæ pecuniæ quisque possidebat in omni regno suo, à maximo usque ad minimum, & quantum redditus quaque possessio reddere poterat: & vexata est terra multis cladibus inde procedentibus.

Ingulphi Histor. p. 69, 70. Porro contra victoriosissimum *Willielmum* novum regem plurimi Principes terræ aliquandiu reluctati, sed postea fracti viribus ejus, & superati tandem se *Normanorum* nutui submisērunt. Which last Paragraph is indeed more capable of belief, than what he had said of King *William's* coming to the Crown (*ibid. p. 69.*) that he was latenter receptus, ovanterque rex clamatus, received and proclaimed King with very great joy. *Flor. Wigor. Chronic. p. 635.* *Anglis* importabile tributum imposuit. *Id. ibid. p. 636.* rex *Gulielmus* monasteria totius *Angliæ* scrutari, & pecuniam quam ditiores *Angli* propter illius austeritatem & depopulationem in eis posuerant auferri, & in ærarium suum jussit deferri.

(*r*) *Id. ibid. p. 636.* Abbates etiam aliqui ibi degradati sunt, operam dante rege, ut quamplures ex *Anglis* suo honore privarentur, in quorum locum suæ gentis personas subrogavit, ob confirmationem sui (quod noviter acquisierat) regni, &c.

(*s*) Hæ sunt leges & consuetudines quas *Willielmus* rex concessit universo populo *Angliæ* post subactam terram. Eadem sunt quas *Edwardus* rex cognatus ejus observavit ante eum. Leges *Gulielmi* primi reg. *Angl. Cantabrigiæ 1644. p. 159.* See also *Silas Taylor's History of Gavelkind, London 1653. c. 4. p. 56, &c.*

with

with the spoils of the poor *English*, while our Nobility (t) were thrown into Prison, our Bishops and Abbots depriv'd of their Possessions. He took vast sums of Silver and Gold from his most potent Subjects, and tir'd them all with building of Castles; nor was there any who could withstand him. All which is affirm'd by *Henry of Huntington*, who (v) then declares that what he wrote, he had either seen himself, or had receiv'd his Information from those who had been Spectators thereof.

Thus this King who had sworn to keep the Laws, and to have those of *K. Edward* the Confessor inviolably observ'd (x), found out Pretences to extort a Treasure from all Persons, till Death put a Period to his Cruelty and Exactions; leaving this Kingdom to his Second Son *William*, and bequeathing his Dutchy of *Normandy* (which was his antient Patrimony) to his eldest Son *Robert*: which was as great a piece of Injustice in a Father to a Son, as the Exclusion of *Edgar Adelyng* and the whole Royal Line of the *Saxons* was before, when he usurp'd the *British* Throne.

W. Rufus
appointed
King by his
Father.

That his Son *William* was appointed King by his Father before his Death, is own'd by (y) *Ingulphus* and by *Florentius* (z), who both liv'd at that Time. The former of these will have *William Rufus* to be joyfully receiv'd by Archbishop *Lanfranc* and the rest of the Grandees of the Nation, and so to be solemnly crown'd at *Westminster*. The latter tells a different Story, that indeed *Rufus* was chosen King by his Father, and accepted and consecrated for such by *Lanfranc*; (a) but that there was a great Contention among the Nobility about the Succession to the Crown; part of the *Norman* Nobles siding with King *William*, but the greater part of them favouring *Robert*, and wishing that he might be their King, and that his Brother should be slain, or be deliver'd up to him alive, and so depriv'd of the Royalty. By which Expression I guess, that *William* had been elected King before this Commotion was begun, and that too, because that Historian places it in the Year after *William* assum'd the Throne.

With this Narrative doth *Simeon of Durham* (b) seem to accord: since he not only uses the same Words with *Florentius*; but adds, that King *William*, hearing of this, convenes the *English*, shews them the Treachery of the *Normans*, begs their Assistance, and promises them, that if they would stick faithfully to him in this Exigency, they should have better Laws than they would chuse; they should also have their Woods, and Liberty to hunt.

The *English* faithfully assisted him; but he soon forgot whatsoever he had promis'd them. *William of Neuburg* (c) declares, that several of the Nobility favouring Duke *Robert's* Pretensions, disturb'd the Tranquillity of *William's* Reign at the first;

(t) Hen. Huntingd. Histor. lib. 6. Posuerat namque Consules & Principes in carcerem: Episcopos & Abbates (agreeable to what is produced before from *Florentius*) possessionibus suis privaverat: fratri proprio non pepercerat: nec erat qui resisterat: aufererat quoque potentissimis etiam auri & argenti millia ad castella, solus omnes fatigabat ad construenda.

(v) Id. ibid. l. 7. p. 372. Nunc autem de his quæ vel ipsi vidimus, vel ab iis qui viderant audivimus, pertractandum est declaratumque constat.

(x) Id. ibid. Quomodo dominus salutem & honorem genti Anglorum pro meritis abstulerit, & jam populum non esse iusserit. Patebit a modo quomodo & ipsos Normannos vindices quidem suos — Id. ibid. l. 6. Rex acquisitis magni thesauri copiis super quoscunque aliquam causam invenire poterat sive justè, sive injustè, &c.

(y) *Ingulphi* Histor. p. 106. — Cum enim gloriosissimus rex *Willelmus* primus in fata cessisset, & *Normanniam* *Roberto* filio suo seniori dimisisset, & *Angliam* *Willelmo* filio suo juniori per testamentum legasset: *Willelmus* funere patris sui in *Angliam* festinus ab Archiepiscopo *Lanfranco* nutritore suo cæterisque magnatibus totius regni lætis manibus exceptus est, & solemniter apud *Westmonasterium* coronatus. With the History of this *William* that of *Ingulphus* ends.

(z) *Florent. Wigor. Chronic.* p. 642. filio suo *Gulielmo* regnum tradidit *Angliæ*.

(a) Id. ibid. a *Lanfranco* *Doroberniæ* Archiepiscopo in regem consecratus est — Hoc anno inter primates *Angliæ* orta est discordia, pars etenim nobiliorum *Normannorum* favebat regi *Gulielmo*, sed minima; pars vero altera favebat *Roberto* Comiti *Normannorum*, & maxima: cupiens hunc sibi asciscere in regnum, fratrem vero aut fratri tradere vivum, aut regno privare peremptum.

(b) *Sim. Dunelm. Histor. de gest. Reg. Angl.* col. 214, 215. Hoc anno inter Primates *Angliæ*, &c. as above in *Florentius*, and then proceeds — Hoc audito, Rex fecit convocare Anglos, & ostendit eis traditionem *Normannorum*, & rogavit, ut sibi auxilio essent, eo tenore, ut si in hac necessitate sibi fideles existerent, meliorem legem quam velent eligere, eis concederet, & omnem injustum scortum interdixit, & concessit omnibus sylvas suas & venationem, sed quicquid promisit parvo tempore non custodivit. Angli tamen fideliter eum juvabant.

(c) *Gul. Neubrig. Rerum Anglie*, lib. 1. c. 2. p. 5. *Robertus* primogenitus in Ducatu *Normannia*, & *Guillelmus* qui agnominatus est *Rufus* in Regno *Angliæ*, patri defuncto succedere, ordine quidem præpostero, scilicet per ultimam patris (ut dictum est) voluntatem commutato. Unde factum est, ut quibusdam Optimatum *Roberto* propensiores tanquam justo hæredi & perperam exhæredato, favorem præstantibus, statumque regni turbantibus, &c.

judging *Robert*, who was the right Heir, was unjustly disinherited, and *William* advanc'd into the Throne in a preposterous manner, because he was to succeed upon the account of his Father's Will.

But *Eadmerus* (d) a Monk of *Canterbury*, who liv'd also at that Time, and who was senior to the last-mention'd Historian by near eighty Years, doth, agreeably to that Humor, which was but too visible in the Ecclesiasticks of those middle and superstitious Ages, and especially then when the *Hildebrandine* Faction began to prevail in the Church, inform us, that *Will. Rufus* desir'd to worm his Brother *Robert* out of the Royalty; and there *Eadmerus* endeavours to make us believe, that he was wholly indebted to *Lanfranc*, Archbishop of *Canterbury*, for obtaining his said Desires, without whose Assent he could by no means have consummated his Wishes; giving us not the least account of his Father *William's* last Will and Testament, by which the Crown had been bequeath'd to *Rufus*; but lays (as I have already hinted) all the Strefs upon *Lanfranc's* Authority and Interest in the Nation. Pursuant to which he says, that *William Rufus* did both by himself and by all others, whom he could induce to plead for him, faithfully promise, and even swear to *Lanfranc*, that if he could be receiv'd King, he would take care that Justice, Equity and Mercy should be observ'd thro the whole Kingdom, as the Nature of the Business I suppose would permit; that he would defend the Peace, Liberty and Security of the Church, against all men; and (to compleat this Picture of implicate Obedience) that he would obey *Lanfranc's* Precepts and Counsels in all things. The Historian here would have us believe, That the Archbishop's Interest (to which this Monk was not a little devoted) was so great, as wherever it was engag'd, it carry'd all without Resistance; since that alone could bring this *William* to the Throne, notwithstanding that he had an elder Brother alive: And further, That that Prelate was promis'd to king it himself, because his Injunctions and Advices were to be the King's Directions in his Government. But herein the Archbishop was out in his Measures; for, as *Eadmerus* there adds, When the King was confirm'd in his Royalty, he valu'd not the Promise which he had made, and consequently the Archbishop's Counsels were no more regarded than suted with that Prince's Designs. However, or upon what Motives that King ascended this Throne (*Eadmerus* being singular in his account of it) 'tis certain his elder Brother was thereby set aside; as he was again, when that *William's* cruel Reign was concluded by a miserable end, and his youngest Brother *Henry* fill'd the vacancy, and obtain'd the Regal Diadem of the *English* Nation, in prejudice of the said *Robert*, who gave no small disturbance to him, as he had done to the other before. Concerning whose advancement *Florentius* of *Worcester* (a) only saith, that *Henry* succeeded his Brother *William*, and was consecrated King by *Maurice* Bishop of *London*, and that he (among other things) abrogated all the evil Customs and unjust Exactions with which this Kingdom of *England* had been unjustly oppress'd, and restor'd the Law of *Edw.* the Confessor, with those Emendations which his Father had made therein before him. But *Eadmerus*, (b) the Disciple of Archbishop *Anselm* of *Canterbury*, and once Bishop of *St. Andrew's* in *Scotland*, (c) altho he owns, That that which gave so great

Ar. Bishop
Lanfranc
his great
Power.

(d) *Eadmeri Historiæ novorum five sui seculi*, Lond. 1623. l. i. p. 13. Defuncto itaq; Rege *Willielmo*, successit ei in regnum *Willielmus* filius ejus, qui cum regni fastigia fratri suo *Roberto* præripere gessiret, & *Lanfrancum*, sine cujus assensu in regnum accessi nullatenus poterat, &c.—Coepit tam per se quam per omnes quos poterat, fide sacramentoque *Lanfranco* promittere, justitiam, equitatem, & misericordiam se per totum regnum, si rex foret, in omni negotio servaturum; pacem, libertatem, securitatem Ecclesiarum contra omnes defensurum, nec ne præceptis, atque consiliis ejus per omnia & in omnibus obtemperaturum. Sed cum posthac in regno fuisset confirmatus, postpositâ pollicitatione suâ, &c.

(a) *Flor. Wigor. Chron.* p. 650. Cui (i. e. *William* II.) successit junior frater suus *Henricus*, & mox—a *Mauricio* *Lundoniensi* Episc. in regem est consecratus. Qui consecrationis suæ die S. Dei ecclesiam, quæ fratris sui tempore vendita, & ad firmam erat posita, liberam fecit, ac omnes malas consuetudines & injustas exactiones (quibus regnum Angliæ injustè opprimebatur) abstulit—Legem Regis *Ead-*
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wardi omnibus in commune reddidit, cum illis emendationibus, quibus pater suus illam emendavit. — *Florentius concludes his History with that of K. Henry I.*

(b) *Johannis Pitæi Relationum Historiarum de Rebus Anglicis* Tom. 1. Parisiis 1619. p. 199. *Eadmerus* vel *Edmerus*—Episcopus *S. Andreae* in *Scotia*. Fuit *S. Anselmi Cantuariensis Archiepiscopi* primum auditor & discipulus, deinde convictor & amicus, &c.

(c) *Eadmeri Historiæ novor. lib. 3. p. 55.*—Spes inde maximè procedebat quod *Henricus* qui tunc noviter Fratri (i. e. *Will. II.*) defuncto in regnum successerat, in ipso suæ consecrationis die bonas & sanctas omni populo leges se servaturum; & omnes oppressiones & iniquitates quæ sub Fratre suo emerserunt in omni suâ dominatione, tam in Ecclesiis quam in sæcularibus negotiis, prohibitorum & subversurum sponsoverat, & hæc omnia jurisjurandi interjectione firmata, sub monumento literarum sigilli sui testimonio roboraturum, per totum regnum divulgatum iri præceperat. Præsentia (sc. *Anselmi*) nihilominus communis omnium patris jam ipsi

hopes to the Nation, upon K. Henry's Accession to the Crown after his Brother's death, was his promising on the day of his Consecration, That he himself would observe good and holy Laws; that he would forbid and take away all Oppressions and Errors in Government, which during his Brother's Reign had been committed either in Ecclesiastical or Secular Concerns; all which he not only confirm'd with an Oath, but order'd them to be divulg'd to the whole Nation under the broad Seal. Altho I say, *Eadmerus* mentions all these things, yet doth he seem to make *Anselm*, Successor to *Lanfranc* in the Metropolitcal See of *Canterbury*, a great Instrument in fixing the Crown upon *Henry's* Head; since he adds, That *Anselm's* presence at the King's Consecration, who was the common Father of all, added not a little strength to that hope which was conceiv'd of *Henry's* good Rule, in the minds of the People. As if the very appearance of that Archbishop with the new King, affected the Nation so much, as to hinder their murmuring at the Exclusion of *Robert Duke of Normandy*, the true Heir of the Kingdom.

Election of
H. I.

Indeed *W. of Malmesbury* (a) takes no notice of this particular, on which *Eadmerus* (I suppose, for his great Patron *Anselm's* honour) insists so much. He tells us, That *Henry* was elected King, after the solemnities of K. *William II's* Funeral were over, but not without some previous Contests among the Nobility, before that Election was settl'd. *Simeon of Durham* (b) barely mentions his succeeding his Brother *William*: And so doth *Peter Blesensis*, * Archdeacon of *London* †, but with this Addition; That his elder Brother *Robert*, at that very juncture, was in the Holy Land stoutly warring against the *Turks* and *Saracens*. *Henry of Huntington* (c) tells us, That *Henry* was chosen King; as indeed he could not be so by any other means, since his elder Brother *Robert* had certainly the Right to that Dignity by hereditary Descent. To conclude this Historical Revolution, (d) *William of Newbury* only saith, *Henry* succeeded his Brother. But *Gervase* Monk of *Canterbury* uses this expression, (e) That he undertook the Government, being crown'd at *Westminster* by *Maurice* Bishop of *London*, (as *Florentius* had said before) and then he adds, That *Anselm* Archbishop of *Canterbury* was not there, being then in exile thro the Persecution of K. *William II*. Which additional Account spoils (if true) the fine Scheme of *Eadmerus*, who would have *Anselm* so great an Instrument in fixing *Henry* on the Throne: but whether *Eadmerus*, who was then living, or *Gervase*, ought to be herein believ'd, is left by me to the Readers Judgment.

Stephen's
Succession.

Upon the death of *Henry I.* (who surviv'd his elder Brother *Robert*) his Daughter and only Heir *Matildis* did not succeed him; but *Stephen*, younger Son of *Stephen* Earl of *Blois*, by *Alice* Daughter of *William* the Conqueror, and consequently Nephew to the last King *Henry* (altho, (f) as *Henry of Huntington*, who liv'd at that time, saith, he had taken the Oath of Fidelity to the said *Matildis* or *Maud* in her Father's time) did, notwithstanding that, invade, as he terms it, the Regal Diadem. And *William* Archbishop of *Canterbury*, who was the first that had taken the Oath of Allegiance to the abovesaid *Matildis*, crown'd him; and all the Bi-

ipsi spei non parum roboris apud hominum mentes adjiciebat.—*Eadmerus's History ends with that of Henry I.*

(a) *W. Malmesb.* l. 5. p. 156. Occiso verò Rege Willelmo—post justa funeri regio persoluta, in regem electus est, (sc. H. I.) aliquantis tamen ante controversiis inter proceres agitatis, &c.

(b) *Sim. Dunelm. Histor. de gest. reg. Anglor.* col. 225. Cui (i. e. Will. II.) successit junior frater suus Henricus, &c. With whose History that of *Simeon* ends too.

* *Petri Blesensis Continuatio ad Historiam Ingulphi, Oxonia 1684.* p. 111. Porro successit ei ad regnum frater suus junior Henricus pulcherrimus adolescens, & ex scientia literarum ambobus fratribus astutior ac acutior ad regnandum, seniore fratre suo Roberto hoc temporis momento in terra sancta contra Turcas & Saracenos in Christianorum exercitu strenuissime præliante.

† *Gul. Cave Chartophylax Ecclesiasticus, Londini 1685.* p. 225—postea Londinensis in Anglia Archidiaconus. &c.

(c) *Henr. Hunting. Hist.* l. 7. p. 378.—Henricus frater ejus junior ibidem in regem electus, &c. But that Historian also saith in the same place, That

the Nobility of England were angry with the King (i. e. Will. II.) for his Brother Robert's sake.—Id. ibid. commoti sunt principes Angliæ erga regem causa fratris sui Roberti advenientis cum exercitu, &c.

(d) *Gul. Neubrig. Rer. Anglic. l. 1. c. 3. p. 8.*—Regi Guillelmo infeliciter mortuo, frater suus Henricus successit.

(e) *Chronica Gervasii Londini 1652.* col. 1338.—Suscepit Henricus primus Monarchiam totius Angliæ, & coronatus est apud Westmonast. iv. non. Augusti a Mauricio Londinensi Episcopo, quia eo tempore exulabat beatus Anselmus Cantuar. Archiepiscopus, ex persecutione Willielmi Regis Rufi.

(f) *Henr. Hunting. Histor. p. 386.*—Venit enim sine mora Stephanus Theobaldi Blesensis Consul frater junior eo, vir magnæ strenuitatis & audaciæ; & quamvis jurasset in sacramentum fidelitatis Anglici regni filiæ regis Henrici, fretus tamen vigore & imprudentia regni diadema, Deum tentans, invasit. Willielmus Cantuariensis Archiepiscopus, qui primus sacramentum filiæ regis fecerat, eum (proh dolor!) in regem benedixit—omnes qui sacramentum juraverant tam præfules quam consules & principes assensum Stephano præbuerunt, & hominum fecerunt.

shops, as well as the Earls and Princes who had sworn to *Maud*, now gave their assent to *Stephen*, and did him homage: I say, to him who had no Right by hereditary descent, *K. Henry's* Daughter being then alive. *William* of *Malmesbury*, who dedicated (as I have already said) his History to *Robert* Earl of *Glocester*, King *Stephen's* great Enemy, and natural Son to *Henry* I. and who by consequence was really no well-wisher to *Stephen*, assures us, (g) That tho he was receiv'd for King by the Inhabitants of *London* and *Winchester*, yet that his Brother *Henry* Bishop of *Winchester*, who then was the Pope's Legate in this Nation, was so great an Assistant to *Stephen* in gaining the Crown, that his endeavours had been in vain without him. And that accordingly *Stephen* was crown'd King of *England*, three Bishops being only present thereat, but no Abbots, and very few of the Grandees. But because perhaps for the reason above mention'd, *William* of *Malmesbury* had a Pique against *Stephen*, we will hear what other Historians in and about the same time do say of the manner of his gaining the Regal Dignity.

To proceed then, *John* Prior (h) of *Hagulfstad*, next in point of time to the last Author, tells us, That *Stephen*, *K. Henry's* Sister's Son, and Brother to *Theobald* Earl of *Blois*, and of *Henry* Bishop of *Winchester*, assum'd the Regal Power, *Will.* Archbishop of *Canterbury*, and the generality of the Clergy and Laity at *London* consenting to his promotion. *Richard* Prior (i) of the same Place brings in this King *Stephen* in a Proclamation, owning himself an elected King by the Assent of the Clergy and People, consecrated by *William* Archbishop of *Canterbury*, and confirm'd by *Innocent* Bishop of *Rome*. You see these two latter Historians differ mightily from the former, tho Prior *John* was senior to the Archdeacon of *Huntington*: the first of the four affirming, That *Stephen* invaded the Crown; the second, That he was made King by his Brother's Artifice; and the two last, that he was chosen by the consent both of the Clergy (who were very powerful in those days) and the Laity. *Will.* of *Newburg* doth indeed on the other side say, (k) That *Stephen* invaded the Kingdom: but (l) then he withal tells us, that the Bishops and other Nobles, who as well as he had sworn Fidelity to *K. Henry's* Daughter *Mathildis*, were great Agents in that turn of Affairs. *Gervase* of *Canterbury* (m) is much of the same Opinion with *Will.* of *Newbury*, affirming, that *Stephen* was advanc'd to the Kingdom by the Assistance of his Brother *Henry* Bishop of *Winchester*, and the Grandees of the Nation. Lastly, *Ralph de Diceto*, Dean of *London*, † only tells us, that *Stephen* Earl of *Bologn*, having heard of his Uncle *K. Henry's* death, pass'd over into *England*, and was consecrated or crown'd King at *London* by *William* Archbishop of *Canterbury*, without mentioning by what methods he * attain'd to that Supreme Dignity. Which last

(g) Will. Malmesb. Hist. Novel. Francofurti 1601. lib. 1. p. 178. — Ille vero a Londoniensibus & Wintoniensibus in regem acceptus est — ne tamen veritas celetur posteris, omnes ejus conatus irriti fuissent nisi Henricus frater ejus Wintoniensis Episcopus, qui modo Apostolica sedis legatus est in Anglia, placidum ei commodasset assensum — Coronatus est ergo in Regem Angliæ Stephanus tribus Episcopis presentibus — nullis Abbatibus, paucissimis optimatibus. — With the Reign of K. Stephen we are to take leave of this Historian, and of Henry Archdeacon of Huntington.

(h) Johannis Prioris Hagustaldensis Ecclesiæ Historia, Londini 1652. col. 258. — Stephanus Comes Bononiensis, filius sororis Henrici Regis, frater Teobaldi comitis de Blavio & Henrici Episcopi Wintoniæ, sumpit insulas Regni Kal. Jan. consentientibus in ejus promotionem Cantuar. Willielmo Archiepiscopo, & laicorum apud Londonias universitate.

(i) Historia Richardi Prioris Hagustaldensis de gestis Regis Stephani, &c. Londini 1652. col. 314. Ego Stephanus Dei gratia, assensu cleri & populi in regem Angliæ electus, & a Willielmo Cantuariensi Archiepiscopo & sanctæ Romanæ Ecclesiæ legato consecratus, & ab Innocentio Sanctæ Romanæ sedis Pontifice confirmatus, &c.

(k) Gul. Neubrig. Rer. Anglic. lib. 1. c. 4. p. 14. — defuncto sed nondum sepulto clarissimo Rege Anglorum, & duce Normannorum Henrico, Stephanus Comes Bononiensis ejus ex sorore nepos regnum Anglorum invasit.

(l) Id. ibid. p. 14, & 15. — Idem Stephanus sacramenti, quod filia ejus (sc. Mathildis) de conservanda fidelitate prastiterat prævaricator, regnum arripuit, annitentibus Præsulibus atque Principibus eodem sacramento astrictis.

(m) Chron. Gervasii col. 1340. Sullimatus igitur Rex Stephanus in regno cum opitulante sibi fratre Henrico Wintoniensi Episcopo regios obtinuit Thesuros, universosque Angliæ procures confederatos haberet.

† Abbreviationes Chronicorum autore Radulfo de Diceto, Londini 1652. col. 549. Stephanus comes Bononiæ audita morte Regis Henrici avunculi sui, transfretavit in Angliam, & a Willielmo Cantuariensi Archiepiscopo consecratus est in Regem apud Londoniam.

* And it was still somewhat more favourable on K. Stephen's side, if what the same Author says elsewhere be true: viz. That Hugh Bigod the King's Steward coming into England, took it upon his Oath before the Archbishop of Canterbury, that when K. Henry was in his last Sickness, a quarrel happening betwixt him and the Empreß, he disinherited her, and made Stephen his Heir. — Id. ibid. col. 505. Hugo Bigod Seneschallus Regis veniens in Angliam coram Archiepiscopo Cantuariensi Sacramento probavit, quod dum Rex Henricus ageret in extremis mortis, quibusdam inimicitiis inter ipsum & imperatricem, ipsam exheredavit, & Stephanum heredem instituit.

account (tho from the youngest Historian of all that I have quoted) doth, if true, seem to free K. *Stephen* from the guilt of Perjury, with respect to *Maud* the true Heir: Since therefrom it may be inferr'd, that he swore no Fidelity to her at her Father's death, because he was out of the Kingdom when his Uncle *Henry* dy'd. However, it cannot be deny'd, that upon what score soever, whether wholly by election, or partly by that and partly by force, he attain'd to the Scepter, he was no true Heir of the Crown: Nor did he indeed quietly enjoy it, being constantly in war about the possession of it, first with his Coulin *Maud*, who (n) once unhing'd him, and took him Prisoner, and then with her Son *Henry* by her second (o) Husband *Geffrey* Duke of *Anjou*; until at last by the Mediation of Friends (p) the matter was accorded, so that *Stephen* should reign for the remaining part of his Life, as if he had really been the lawful Prince, and Duke *Henry* was to succeed him in the Kingdom, as lawful Heir thereof. *Gervase* of *Canterbury* goes yet further (q); for he saith, that the *English* Nobility did by the King's Command swear Fidelity to Duke *Henry*, with this Condition, That *Stephen* should be King during his Life. And here is one thing worthy of Remark in this Agreement betwixt the King and the Duke; that *Maud* the Empress, Mother to Duke *Henry*, and who was the true Heir of the Crown, was wholly neglected, no shadow of Royalty being left for her to whom it strictly belong'd, while (r) K. *Stephen* adopting the Duke for his Son, solemnly declar'd him his Successor, and the Duke honour'd the King as his Father and Sovereign before all the People. Thus while these Covenants were agreed to by the Male Pretenders, the Empress had no respect paid to her, as to the true Inheritrix of the *English* Empire, and (s) dy'd in the thirteenth year of her Son *Henry*'s Reign. For tho, as *W.* of (t) *Newbury* saith, upon this publick accord, *Stephen*, who was before only King in name, began after that to reign indeed, having first wash'd off the stain of tyrannical Invasion by becoming now a lawful Prince; yet did not he long enjoy that Felicity (in relating which, that Historian seems to be pleas'd, when there was a Prospect of the right Heir-male coming to the Crown) and after his decease, Duke *Henry* undertakes, as (v) the same Author phrases it, this hereditary Kingdom, being receiv'd as Sovereign with an universal satisfaction.

Richard I.
his Succession.

No sooner had that magnanimous, but unfortunate Prince *Henry* II. submitted to the inevitable stroke of Death, (x) but (his eldest Son then living) *Richard* succeeded him: And tho, as *Will.* of *Newbury* declares, he was beyond Sea when his Father left this World, yet was he receiv'd, at his return hither, with the solemn Wishes of both the Nobility and Commonalty, who testify'd their Joy thereat, and almost the whole Nobility attended his Coronation at *London*; a Day which prov'd so fatal to the * ews. Thus doth that Historian set forth the manner how King *Richard* ascended J the Throne of his Royal Progenitors, being the first after the *Norman* Conquest, who possessed it in an hereditary Succession. Nor is there the least syllable in that Author of K. *Richard*'s being elected; to whom, as being

(n) Guliel. Neubrigenfis Rer. Anglic. l. i. c. 8. p. 24. Rege ipso imprimis fortiter agente, quo tandem capto & turba ejus profligata, victor exercitus urbem diripiendam ovans ingreditur, & captivus insignis distæ imperatrici transmissus apud Bristou custodiæ mancipatur.

(o) Id. ibid. l. i. c. 29. p. 79. — Henricus Matildis olim imperatricis ex illustri Andegavensi Comite filius, &c.

(p) Id. ibid. l. i. c. 30. p. 83. Ubi amicis mediantibus — Pax inter eos & cautè formata, & solidè firmata est. Decretumque ut Stephanus de cætero tanquam Princeps legitimus integre in Anglia cum gloria & honore regnaret. Henricus vero ei tanquam hæres legitimus in regno succederet.

(q) Gerv. Chron. col. 1375. — Ibique Comites & Barones Anglicani regni ex præcepto Regis duci debitam juraverunt fidelitatem, salvo nimirum honore regio quoad viveret Rex.

(r) Gul. Neubrig. Rer. Anglic. l. i. c. 30. p. 83, & 84. Et Rex quidem ducem adoptans in filium, eum solemniter successorem proprium declaravit. Dux vero Regem tanquam patrem & dominum in conspectu omnium honoravit. Gulielmus autem Regis filius junior jubente duci homagium fecit.

(s) Chronic. Johannis Bromton. A. D. 1165. col. 1059. anno regis Henrici XIII. Matildis Imperatrix mater ipsius regis Henrici diem suum clausit extremum.

(t) Gul. Neubrig. Rer. Anglic. l. i. c. 30. p. 84. — Annis enim jam plurimis, fere nudo Regis nomine insignis; tunc recipere visus est hujus rem nominis, & quasi tunc primo regnare cœpit, quia tunc primo purgata invasionis tyrannicæ macula legitimi Principis justiciam induit.

(v) Id. ibid. lib. 2. cap. 1. p. 93. — Henricus, Henrici majoris ex filia olim Imperatrice nepos, post mortem Stephani a Normannia in Angliam veniens, hæreditarium regnum suscepit, conclamatus ab omnibus — concrepidantibus per Angliam turbis, Vivat Rex.

(x) Id. ibid. l. 4. c. 1. p. 311. Richardus illustrissimi Regis Anglorum Henrici II. filius, defuncto patri successit. Hic patre sepulto hæreditati mox transmarinæ incumbens, nobilium simul & plebium, solemnibus votis gaudiisq; accipitur.

* Id. ibid. p. 312. Dies enim ille Judæis exitialis fuisse dinoscitur, &c. With this King's History this Historian, Gervase of Canterbury, and John of Bromton do conclude theirs.

born long before that King's Coronation, I think greater respect and credence ought to be had, than to one further remov'd from the time when such things were acted.

King *Richard* being dead (without Issue lawfully begotten) *Arthur*, Son to his ^{K. John} younger Brother *Jeffery*, ought to have succeeded his Uncle *Richard* in the *English* ^{succeeds.} Crown, but his youngest Brother *John* Earl of *Morton* stept over *Arthur* the right Heir's Head. For (y) as *Roger Hoveden*, who liv'd at that time, informs us, tho the Nobility of *Anjou*, *Tourain*, &c. stuck to *Arthur* Duke of *Britain* abovesaid, as to their Liege Lord, saying, *That it was the Custom of those Countries, that the elder Brother's Son was to succeed in his Father's Inheritance, viz. in that Inheritance which Jeffery Earl of Britain should have had, if he had surviv'd his elder Brother K. Richard; and that therefore they deliver'd Anjou, Tourain, &c. to the said Arthur: I say, notwithstanding what those Lords did in favour of Arthur, his Grandmother Queen Eleanor, and Mother to Earl John, Hubert Archbishop of Canterbury, and William Marechal being sent to retain England in Peace, made all men here, as well Citizens and Burghers, as Earls, Barons and Freeholders, to swear Fidelity to John the Son of K. Henry, who was Son to the Empress Maud, against all others; who consequent thereof obtain'd the Kingdom, altho in prejudice of Arthur Earl (or Duke, for he is call'd both ways) of Britain, who notwithstanding this gave K. John all manner * of disturbance during his life, being (z) by his Mother Constantia's means (as Matthew Paris informs us) deliver'd up to the King of France's protection, who upon that score seiz'd upon all his Cities and Castles, and assisted and buoy'd up his Interest and Title against those of K. John: in which design he was (maugre K. John's Coronation) seconded by † several of the Norman Nobility and others.*

And altho K. *John* (a) once got his Nephew *Arthur* perswaded to submit himself to him without reserve (as *Ralph de Diceto*, who liv'd then, informs us) yet he passing over again to the King of *France*, who entertain'd him for the sake of his Estates, and caus'd him to be educated at *Paris* with his Sons, created new disturbances; and when at last this *Arthur* was taken Prisoner, and (b) accordingly sent as such to *Roan*, K. *John* being menac'd with constant War, unless all the Provinces belonging to *Arthur* by hereditary Right, were restor'd to him, another course was taken: so that the said *Arthur* not long after that (as *Mat. Paris* informs us, who is next to the last-mention'd Historian in point of time) vanish'd in a manner unknown almost to all People, tho not without suspicion of foul play in his Exit. *Arthur's* Death, K. *John's* (c) Irreligion, and (what was more insupportable in that

(y) *Rogeri de Hoveden*——*Annal.* p. 792. defuncto Richardo rege Angliæ——Convertunt in unum principes Andegaviæ, Cenomanniæ & Turoviæ, & adhæserunt Arthuro duci Britannię sicut ligio domino suo, dicentes judicium & consuetudinem terrarum illarum esse, quod filius fratris senioris debet ei succedere in patrimonio sibi debito——videlicet in hæreditatem quam Gaufridus Comes Britannię pater ipsius Arthuri esset habiturus——si supervivisset Richardum regem Angliæ fratrem suum, & ideo tradiderunt Arthuro Andegaviam, & Turoviam & Cenomanniam.——*Id.* ibid. p. 793. Hubertus vero Cantuariensis Archiepiscopus, & Willielmus Marechallus, qui missi fuerant ad pacem Angliæ custodiendam, fecerunt homines regni tam de civitatibus, quam de Burgis, & Comites & Barones, & libere tenentes jurare fidelitatem, & pacem Johanni Normannorum duci, filio Henrici regis, filii Matildis imperatricis, contra omnes homines.

* *Mat. Westm. flores Histor.* p. 263. Johannes igitur frater regis Richardi jam defuncti, Comes Moretonii, pacem suam in Angliā nunciavit. Ducatum Normanniæ suscepit & homagia nobilium. Multi tamen magnates Arthuro, quasi naturali domino, adhæserunt. Et hoc fuit seminarium odii.

(z) *Matthæi Paris. Historia major Londini* 1684. p. 165.——Constantia præterea mater Arthuri ad Regem Francorum Turonem veniens, tradidit ei Arthurum memoratum, quem Rex continuo misit

Parisiis sub custodia deputatum; & accepit in manu sua civitates omnes & castella, quæ Arthuri erant.

† *Mat. Westm. Flor. Hist.* (ut sup.a)——multi tamen magnates Arthuro, quasi naturali domino, adhæserunt.

(a) *Imagines Historiarum* autore Radulfo de Diceto, Londini 1652. col. 705. Dominus Johannes Rex Angliæ Arturum filium fratris sui Galfridi comitis Britannię venientem ad se, & ejus se per omnia subjicientem, voluntati minus caute dimisit a se. At ille transtulit se ad regem Franciæ, qui cum bonis ejus inhians, facit nutrirī cum filio suo Parisiis.

——*At the reign of King John we bid farewell to the Historians* *Ralph de Diceto and Roger Hoveden.*

(b) *Mat. Paris. Histor. major.* p. 174.——Et quia hæc omnia sibi jure hæreditario debebantur; affirmavit cum juramento quod nisi celerius sibi jam dicta omnia restitueret, nunquam diutinā pace frueretur. Audiens autem hæc Rex Johannes, perturbatus est valde; percepitque ut Arthurus apud Rothomagium mitteretur; & ibi in arce novā retrusus sub arctiore custodia serveretur. Sed non multo post, idem Arthurus subito evanuit, modo fere omnibus ignorato, utinam non ut fama refert invidia.

(c) *Id.* ibid. p. 206. adeo desipiebat Rex Johannes, ut de mortuorum resurrectione futura, & aliis fidem Christianam contingentibus, male sentiret, & quadam irrecitabilia dicere deliramenta, &c.

Age) his Oppression of the Nation, the Government of (d) which he resigned up to the Pope of Rome, and held it of him in Vassalage; his great Guard of foreign (e) Attendants, most of them being French, with other Grievances, so much alienated the Hearts of his Subjects, and particularly of his Barons, that (f) after some Hesitation among themselves whom they should chuse, they at last agreed to this, That they would set up and advance Prince Lewis of France to the Kingdom; and accordingly they sent the Earl of Winchester and Robert Son of one Walter, in a solemn Embassy to Philip K. of France, and to his Son Lewis, and Letters with them seal'd with all the Barons Seals, earnestly entreating the Father, that he would send his Son to reign in England, and the Son, that he would come to be crown'd. Altho by the way I cannot but mind a seeming contradiction in this Embassy of the English Lords to France: for tho they plainly declar'd, that it was sent solely upon their desire to have P. Lewis reign here over them; yet at the bottom (g) (if we may believe *Mat. Paris*, an impartial Historian of that Age) they had another design, namely that if K. John were once depriv'd of that foreign Aid (wherewith he was guarded) by the means of Prince Lewis and his Father, whose Subjects the greatest part of those Foreigners (as hath been already hinted) were, and the King being thereby as it were left alone in the War against them, that he would make a Virtue of Necessity, and would listen to better Counsels. Which was as much (in short) as to make a Stale of P. Lewis, and gently to lay him aside when their own ends were serv'd, and as the sequel did in part shew.

K. John's
Troubles.

Whether this conjecture of *Mat. Paris* be true or no, is not very material to know; however upon the noise of this Invasion from France, (h) the Pope's Legate was sent over thither to dissuade P. Lewis from invading or seizing upon England, being then (as he was pleased to call it) the Patrimony of the Roman Church, and to hinder his Father from suffering it. To him it was there answered, (i) that John, call'd King of England, for the Murder of his Nephew Arthur, whom he slew with his own hands, had in that Court of France been condemn'd to Death by the Judgment of his Peers, (he holding, I suppose, Normandy, and other Provinces in France, with some dependence on that Crown) and that the same John had for several Murders and other Enormities, which he had done in England, been disallowed from reigning over them; wherefore the Barons had there rais'd War against him, that they might depose him: Moreover, that the said K. John had without the consent of the Nobility confer'd the Kingdom of England upon the Pope and Church

(d) Id. ibid. in Johan. Reg.—Præterea Rex saepe dictus—regnum Angliæ domino Papæ contulit & Ecclesiæ Romanæ; ut iterum illud reciperet ab eis tenendum.

(e) Id. ibid. p. 234. Ratio autem eorum erat, quod transmarina multitudo, quibus Rex Anglorum vallatus incescit, &c.

(f) Id. ibid. p. 234. Cumq; aliquandiu, quem eligerent, (sc. the English Barons) hæc tasselent, demum in hoc pariter consenserunt, ut Lodovicum filium Philippi Regis Francorum sibi præficerent, & ipsum in Regem Angliæ sublimarent. — Cumq; omnibus communiter hæc sententia placuisset, miserunt per solennes nuncios, scilicet Dominum S. Comitem Wintoniensem & Robertum filium Walteri, ad Regem Philippum & Ludovicum filium ejus, literas, omnium Baronum sigillis munitas: obnixius implorantes patrem, ut filium mitteret in Angliam regnaturum; & filium, ut veniret illico coronandus.

(g) Id. ibid. p. 234. — Quibus Rex Anglorum vallatus incescit si per Ludovicum & patrem suum, de quorum potestate maxima pars eorum (the King's foreign Attendants) fuit, privatus esset; dum à cismarino dictus Rex privaretur & destitueretur subsidio: ipse quasi solus remaneret in bellis, & faciens de necessitate virtutem, salubrioribus obtemperaret consiliis.

(h) Id. ibid. p. 236. — In crastino itaq; procurante Rege Francorum, supervenit Lodovicus ad

colloquium, & torvo vultu respiciens legatum, juxta patrem suum resedit. Quo facto legatus multis precibus cœpit rogare Lodovicum nè iret in Angliam ad invadendum vel occupandum patrimonium Romanæ Ecclesiæ; & patrem ejus, ut prius fecerat, nè ipsum permetteret ire.

(i) Id. ibid. — Ad hæc miles quidam quem Lodovicus procuratorem suum constituerat, surgens, audientibus cunctis respondit: Domine Rex, res notissima est omnibus, quod Johannes dictus Rex Angliæ pro Arthuri nepotis preditione, quem propriis manibus interemit, in curiâ vestrâ per Judicium Parium suorum ad mortem sit condemnatus; ac postmodum à Baronibus Angliæ pro multis homicidiis, & enormitatibus aliis, quas ibidem fecerat, nè regnaret super eos, reprobatus. Unde Barones contra eum guerram moverunt, ut ipsum à solio Regni immutabiliter depellerent. Præterea Rex saepe dictus præter assensum magnatum suorum, regnum Angliæ Domino Papæ contulit & Ecclesiæ Romanæ, ut iterum illud reciperet ab eis tenendum sub annuo tributo mille Marcarum; etsi coronam Angliæ sine Baronibus alicui dare non potuit, potuit tamen dimittere eam. Quam statim cum resignavit, Rex esse desit, & regnum sine Rege vacavit. Vacans itaq; regnum, sine Baronibus ordinari non debuit: Unde Barones elegerunt dominum Lodovicum ratione uxoris suæ; cujus mater, Regina scilicet Castella, sola ex omnibus fratribus & sororibus Regis Angliæ vivens fuit.

of

of Rome, that he might receive it again from, and hold it of the said Pope and Church, by the annual Tribute of 1000 Marks. And tho he (*i. e. K. John*) could not give the Crown of England to any without the Barons, yet he might forfeit (or, to use a new word, *abdicate*) it: for as soon as he resign'd his Crown, he ceas'd to be King, and the Kingdom became vacant without a King; and a Kingdom vacant could not be dispos'd of (or settl'd) without the Barons; whereupon the Barons had elected Prince Lewis for their King, and that (mind what follows) upon the account of his Wife, whose Mother, the Queen of Castile, was the only Person then alive of all the Brothers and Sisters of (*John*) the King of England. Pr. Lew his Plea. i

This was the Plea of P. Lewis and the Barons, which I have transcribed at large, that hereby the Sense of that Age concerning the Succession of the Crown, and the publick Administration of the Government, may the better be understood.

I shall in the next place (to resume the thred of the History) proceed to tell the Reader, that K. John, by the Invasion of P. Lewis, back'd and assisted by the English Barons, was in a manner wholly stript of his Kingdom.

Before his Death (which was not long after the French descent into England) he appointed his eldest Son, Henry, (*g*) to be Heir of his Kingdom, and that England should swear Fealty to him; and pursuant to that his Will issued out Letters under his own Seal, to all the Sheriffs of the Kingdom and Governours of Castles, commanding them to be assistant thereto.

His Death turn'd the Ballance on his Son's side, and mightily chang'd the Face of the English Affairs: for, tho it for a while occasion'd (*h*) a great incertainty among the English Nobility what they should do, and what King they should submit themselves to; whether to young Henry, or (who was the true Heir in his Wife's Right) to P. Lewis; yet (*i*) as a great Assembly was gather'd to exalt Henry to the Kingdom upon his Father's Decease, whether it was that they really pitied that young Prince, and justly judg'd him free of those (*k*) Crimes, of which his Father had been guilty, to which a great Love for their native Country, and those who were born therein, did not a little contribute; or that they saw Prince Lewis break Promise with them, and treat them at an unusual Rate: whether it was one or more or all of these Motives, which cast the Scales of their Affections, however they at length sided with Henry and expel'd P. Lewis, who ought to have possess'd the Crown in Right of his Wife. Henry III. succeeds.

Henry's long and troublesom Reign being ended (for he too had Wars with his Barons about the Libertys of the Nation) (*l*) several of the Nobility, the Clergy and People (as Matthew of Westminster, the nearest Historian to those Times, informs us) after the Interment of the late King, hastened to the great Altar in Westminster Church, to swear Fidelity to Edward, the eldest Son of the said King Henry, and yet were ignorant whether he was alive or no, being then absent beyond the Seas warring against the Infidels. And further, having made a new Seal, they appointed faithful Ministers and Keepers, who should faithfully keep the King's Treasure and the Kingdom in Peace. So that hereby the new King's Peace was (as the His Reign long and troublesom.

(*g*) Id. ibid. p. 242---Henricum filium suum primogenitum, regni sui heredem constituit; regnumque Angliæ illi jurare fecit. Literas etiam sigillo suo munitas, ad omnes vicecomites regni & castellanos direxit; præcipiens, ut ei essent singuli intendentes.

(*h*) Id. ibid. p. 245. Erat autem eâ tempestate inter optimates Angliæ fluctuatio maxima, cui se Regi committerent; Juvenine Henrico, an domino Lodovico.

(*i*) Id. ibid. p. 243. Defuncto Johanne Anglorum Rege---convenērunt & turba multa nimis, ut Henricum Johannis Regis filium primogenitum in Regem Angliæ exaltarent---This Historian concludes his History with that of H. III. which he also did not finish.

(*k*) Matth. Westmonast. flor. Histor. p. 277.---Defuncto Joanne, rege Anglorum---Henricus Joannis primogenitus in regem inunctus, & solenniter coronatus. Et quia se jam exosum & superbum Ludovicus omnibus Anglis exhibuerat, &

munitiones eorum, ac terras spretis Anglis & fœdere, quod cum eis firmaverat, contulerat; omnes Nobiles terræ in brevi ipsi juveni regi Henrico, qui nihil culpæ versus eos meruerat, revertentes fideliter adhæserunt.

(*l*) Id. ibid. p. 401. Rege igitur sepulto, sicut mos est regibus sepeliri, Gilbertus & Johannes, Comites Glovernæ & Warrenniæ, nec non clerus & populus, ad magnum altare Ecclesiæ supradictæ celeriter properârunt, Edwardo primogenito regis fidelitatem jurantes, qui si viveret penitus ignorârunt. Agebat enim in remotis partibus transmarinis, contra Christi adversarios bellaturus. Postmodum ad novum templum Lundini nobiliores regni pariter convenērunt: & facto sigillo novo, constituērunt fideles ministros & custodes qui thesaurum regis & pacem regni fideliter custodirent; sicque pax novi regis Edwardi in cunctis regni finibus proclamatur. And with his History of this Edward I. do we take leave of Matthew of Westminster, who there concludes his.

last-mention'd Historian words it) proclaim'd in all Places or Bounds of the Kingdom. Here was an unexampled Piece of Loyalty, to proclaim an absent Prince King of this Nation. And consequent hereto he was, (m) as *Henry of Knyghton* Canon of *Leicester* (the next to *Matthew of Westminster* in point of Time) tells us, upon his Return with his Wife *Eleanor* from the Holy Land, crown'd by *Robert* Archbishop of *Canterbury*, and the next day after publickly receiv'd Fealty and Homage of *Alexander* King of *Scotland*.

This Good King (* for so, as saith *Henry Knyghton*, he was call'd) being departed this Life, the same Year the Nobles of the Kingdom swore Fidelity before (his Son) *Edward* II. That they would, to the utmost of their Power, defend and keep the Kingdom and Crown; and this under pain of Excommunication.

But this King, unlike his valiant and fortunate Father, (n) suffering himself to be led by false and treacherous Counsellors all his Time, was at last deposed; (o) yet was he not a little satisfied, (as much however as his forlorn Condition would permit him) That they had elected his Son *Edward* to reign over them in his stead, and to which he gave Assent, as much as in him lay.

Edw. III.

Thus this young *Edward*, and third of that Name since the Conquest, being but fifteen Years old, and his Father then alive and in Prison, was (p) crown'd King at *Westminster* on *Candlemas-day*. The beginning of whose Reign was very auspicious (q), as the same Historian adds; for then the Earth grew fruitful, the Air temperate, the Sea was calm, and the Church free.

Rich. II.

When that victorious Prince slept with his Fathers, his Grand-child *Richard*, by his eldest Son *Edward*, succeeded him, (r) not only, (as my Author, who liv'd then, informs us) by hereditary Right, but also by the common Vote of every one.

Unfortunate.

His Government did not at all answer the Hopes conceiv'd of him and it: For he was so far from doing this, that through his male-Administration (s) thereof (concerning which, Articles were drawn up against him in Parliament, that he had violated his Royal Oath) he was judg'd worthy of being deposed. And when the

(m) *Henricus de Knyghton canonicus Leycestrensis de eventibus Angliæ, Londini 1652.*—

Hic etenim *Henricus III.* mortuus est anno *Gratiæ MCCLXXII.* & sepultus apud *Westmonasterium*

Edwardus filius Regis *Henrici III.* x. non. Augusti rediit de Terrâ Sanctâ in Angliam cum *Heleonora* uxore, & coronatus est xiv. kalend. Septembris à *Roberto Cantuariensi* episcopo, & in crastino coronationis suæ recepit publicè homagium & fidelitatem ab *Alexandro* rege *Scotiæ*. Col. 2461.

* *Id. ibid. col. 2531.* Hic primus *Edwardus* Rex nobilis qui bonus *Edwardus* vocatus est, &c. —(ibid.) Eodem anno omnes proceres regni juraverunt coram rege *Edwardo II.* ad fidelitatem regni & coronæ, quod secundum suum posse illud defenderent & custodirent, & hoc sub poenâ Excommunicationis per *Robertum* de *Winchelse* archiepiscopum apud *Lundoniam* inde latâ.

(n) *Id. ibid. col. 2550.* Cum Rex hæc audisset, multum de suis malefactis doluit, rugitus & lamenta emittens, eo quod per falsos & proditiosos consiliarios sic omni suo tempore ductus fuerat.

(o) *Id. ibid.* Veruntamen in se tandem post multos ejulatus reversus, nimis gratulabatur, quod filium suum *Edwardum* post se regnaturum elegerent, & ei assensum suum in quantum potuit attribuit.

(p) *Id. ibid.* *Edwardus* filius *Edwardi* post conquestum tertius, adolescens xv. circiter annorum, vivente adhuc patre suo sub custodia, in festo Purificationis beatæ Mariæ coronatus est in Regem apud *Westmonasterium*.

(q) *Id. ibid.* In cujus primordiis grata augebantur auspicia. Nam & tunc terra ubertatem, aer temperiem recepit, mare tranquillitatem, &

ecclesia libertatem.

(r) *Id. ibid. col. 2630.* Anno *Gratiæ 1377. xvii.* *Kalendarum Augusti* apud *Westmonasterium* coronatio *Richardi II.* regis filii *Edwardi* principis memorati. *Id. ibid.* Hic avo suo regi *Edwardo* jure hæreditario ac etiam voto communi singulorum in regnum successit Anglorum — *With this King, Henry Knyghton ends his History.*

(s) *Ypodigma Neustriæ per Thomam de Walsingham, Londini 1574. p. 156.* In crastino lectis regis (scil. *Rich. II.*) renunciacione & cessacione coram stantibus regni in magnâ aulâ *Westmonast.* consequenter processum est ad articulos pro quibus meritò videbatur deponendus. Qui etiam lecti omnes violation. juramenti regalis finaliter concludebant: Proinde sententiâ depositionis regis lectâ constabat regnum Angliæ cum pertinentiis suis vacare. Quapropter *Dux Lancastriæ* de loco suo surgens, & stans erectus, ut posset à populo toto videri, muniens se signo crucis in fronte & in pectore, & invocato Christi nomine, dictum regnum Angliæ sic vacans, ut permittitur, cum coronâ ac omnibus pertinentiis vendicavit, in linguâ materna sub hac formâ verborum: In Dei nomine Amen. Ego *Henricus de Lancastria* vendico regnum istud cum corona, & omnibus membris illi pertinentibus, tanquam per regum sanguinem venientem de rege *Henrico*, & per justiciam quam Deus de sua gratia mihi misit cum adjutorio consanguineorum meorum & amicorum ad recuperanda illud, quod regnum fuit in puncto perditionis propter defectum gubernationis & legum violationem. Huic vendicationi omnes status regni manus dederunt, & Archiepiscopi cum in regali solio posuerunt, universo populo applaudente, &c.

Sen-

Sentence of Deposition (according to *Thomas of Walsingham*) was read, and that (as he adds) the Kingdom thereby became vacant, *Henry Duke of Lancaster* (Son of *John*, Son to *Edward III.* and younger Brother to *Edward*, King *Richard II.*'s Father) arising from his Seat, and standing so erect as he might be seen by all the People, formally challeng'd the Kingdom of *England*, with the Crown and all its Appendices, as being descended from the Blood Royal of King *Henry*, and out of Justice, to which God (as he said) had of his Grace sent him; since by the Assistance of his Kinsfolk and Friends he had recover'd the Kingdom, when it was in absolute Danger to be lost, through the Defect of the Government and the violation of the Laws. To this Challenge all the States of the Kingdom (as saith the same *Walsingham*) set their Hands, and the Archbishops plac'd *Henry* (formerly Duke of *Lancaster*) in the Regal Throne with the universal Applause of the People; altho it cannot well be denied, that by lineal Descent the said *Henry* had no Right to the Crown of this Nation.

'Tis true, that his Cousin, King *Richard II.* when he was resolv'd to resign, (t) *Rich. II.* first desir'd to speak with the said *Henry*: and (v) when he had resign'd his Regal Authority, he added, that if it had been in his Power, the said Duke of *Lancaster* should have succeeded him in the Kingdom. But, since (as he said) he believ'd it was not then in his (i. e. *Richard's*) Power to do so, he requested the Archbishop of *York* and the Bishop of *Hereford*, whom for that Time he had constituted his Proctors, to declare his Surrender and Renouncing the Royalty to all the States of the Kingdom; that they would also declare to the People his Intention and Will in that particular Case: And in token of such his Will and Intention, he then took off his own Finger his golden Ring and Signet, and publickly there put it on the Finger of the said (*Henry*) Duke of *Lancaster*, desiring, that what he had there affirmed, might thereby be made known to all the States of the Kingdom. I say, this Desire and designed Resignation of the Kingdom by *Richard* to *Henry*, might in part strengthen that hereditary Title which otherwise was deficient in *Henry IV.*

And, if after the producing the Opinion of our own Historians, about the Resignation of our K. *Richard II.* I might consult that of *John Froissart*, a Frenchman, who liv'd about that Time, (x) he would tell us, that the said King *Richard*, induced by fear of his Life, and the Persuasion of those who were in the miserable State (of Prison in the Tower of *London*) with himself, did resign his Royalty publickly to *Henry Duke of Lancaster*: (y) Who afterwards made a publick Challenge of the Crown himself, before the Prelates and Clergy, and several of the Nobility, upon three Accounts: (1.) Of Conquest: (2.) Because he was Heir: And (3.) Because *Richard* had resigned it to him, before certain of the Nobility and Prelacy. And in the same place, the said Duke of *Lancaster* requested all the People there present to shew their Minds about it; and accordingly they said, that they would have none for their King but him.

But, to proceed, altho the Right which King *Henry IV.* had to the *English* Crown flow'd more from a popular Election than hereditary Descent, the Defect of which was partly the cause why his Reign was so incumbered with Civil Wars, and which in a manner entail'd the same upon his Posterity and the House of *York*, till their two *Roses* grew into one about sixty Years after; yet did he die in Peace,

(t) Rotulus Parliamenti summoniti & tenti apud Westmonasterium in festo sanctæ Fidis Virginis, anno regni regis Henrici IV. post conquestum primo, in calce x. Scriptorum Histor. Angl. Londini 1652. col. 2743.— Desideravit tamen habere colloquium cum Henrico Duce Lancastriæ, & præfato Archiepiscopo Cantuariensi, consanguineis suis, antequam promissum suum hujusmodi adimpleret.

(v) Ibid. col. 2745. Et statim idem rex renuntiationi, & cessioni prædictis verbo tenus adjunxit; quod si esset in potestate suâ, dictus Dux Lancastriæ succederet sibi in regno; sed quia hoc in potestate non deprehendebat suâ, ut dixit, dic-

tos Eboracensem archiepiscopum, & episcopum Herefordensem, quos pro tunc constituit suos procuratores ad declarandum & intimandum cessionem, & renuntiationem hujusmodi omnibus statibus regni, rogavit ut intentionem & voluntatem suam in eâ parte populo nuntiarent; & in signum suæ voluntatis, & intentionis hujusmodi, annulum auri de signeto suo patenter de digito suo tunc ibidem extraxit, & digito dicti Ducis Lancastriæ apposuit, desiderans hoc ipsum, ut asseruit, omnibus regni statibus innotesci.

(x) *John Froissart's Chronicle*, Book 34 Chap. 244.

(y) Id. ibid. 245.

and (z) his eldest Son, *Henry*, was crown'd King, without the least syllable of an Election of him, by that *Walsingham*, who flourish'd in this Nation about thirty Years after that King's accession to this Throne.

'Tis true, as the House of *York* were his Rivals in Pretensions to the British Scepter; so did *Richard* Earl of *Cambridge* (who had married *Ann* Daughter of *Roger* Earl of *March*, who was the Heir of *Lionel* Duke of (a) *Clarence*) attempt it during the Reign of that magnanimous Prince. But his Conquests in *France*, and the great Affection which the *English* bare him, secur'd him the Possession of this Kingdom, till Death put a period at once to his Victories and his Government: In neither of which his only Son, *Henry*, was really his Heir; altho he obtain'd his Crowns of *England* (b) and *France*, being adorn'd with the former at eight Years of Age, and of the latter at ten, because he was a Man more fit for a Cell than a Throne.

Therefore after the Death of his two excellent Uncles, *John* Duke of *Bedford* and *Humphry* Duke of *Glocester*, the one Protector of *France*, and the other of *England*; *Richard* Duke of *York*, and Heir of the Family which bore that Title, challenges the Crown, and at last (c) (as *Polydore Virgil*, whom (d) our excellent Historian *Deg. Wheare* recommends as a Successor to *Walsingham*) tells us, prevail'd so far, that in a Parliament it was enacted, that after King *Henry VI's* Death, the House of *York* should inherit the Kingdom, and in the interim the said Duke *Richard* should be Governour of the Kingdom.

But *Q. Margaret*, *K. Henry's* Wife, (e) endeavouring to deliver her Husband (at that time a Prisoner) falls upon Duke *Richard* with an Army; who being there slain, his eldest Son *Edward* (f) is immediately declar'd King by his Party, and *Henry* depriv'd of the Regal Power, because (adds *Polydore Virgil*) he had neither stood to the Agreement betwixt him and *Richard* Duke of *York*, nor had he obeyed or observed the Law which had been enacted before in Parliament.—Pursuant to that Dignity to which he aspired, and whereof he was the lawful Heir, *Edward* falling upon and defeating *K. Henry's* Army at *York*, puffed up (g) with that great Victory and with the general Defection of the Princes and People to his Party, having call'd a Parliament at *Westminster*, he is there created King, and all *K. Henry's* Acts are disannul'd and abolish'd—And thus in him the House of *York*, who were the right Heirs by Blood, attain'd the Regal Diadem.

(z) *Thomæ de Walsingham Historia brevis*, Londini 1574. p. 426. Eodem anno (scil. 1413.) coronatus Londoniis Henricus primogenitus regis Henrici nuper defuncti, quinto Idus Aprilis dominicâ in passione Domini. And here we also part with the Historian Thomas of Walsingham.

(a) *Polydori Virgilii Anglicæ Hist.* Basileæ 1533. lib. 22. p. 436. Dum hic militibus in naves imponendis operam dat, à fideli indice cognoscit Richardum Comitem Cantabrigiæ—factâ conjuratione, mortem sibi machinari—Id. ibid. p. 437. Porro habebat in matrimonio Richardus Comes Annam filiam Rogerii Comitis Marchiæ, quæ reliqua una erat è sanguine Lionelli ducis Clarentiæ, &c.

(b) *Historiæ Croylandensis continuatio*, Oxoniæ 1684. p. 516. Rex verò Angliæ Henricus, anno ætatis suæ simul & regni octavo, in festo sancti Leonardi, apud Westmonasterium ab Henrico Chichley, Cantuariensi archiepiscopo, solenniter extitit coronatus. Quem itidem regem jam exacto biennio, Henricus Beauford—apud Parisios magnificis suis sumptibus, in regem Franciæ denuo coronari.

(c) *Polyd. Virgil. Hist. Anglic.* lib. 23. p. 503.—Convocatoq; Principum concilio, ingressusque curiam (i. e. Rich. Duke of York) primò locum occupavit, qui regi in senatu datus est, deinde coram omnibus se regem esse dixit, docens id jure se fecisse. Sed ad extremum habita est reverentia majestatis, nam senatusconsulto decretum

est, ut post mortem Henrici, hæreditas regni familiæ Eboracensi veniret, ac interim Richardus Dux Eboracensis regni rector esset.

(d) *Deg. Wheare Relectiones hyemales de ratione & methodo legendi utrasque Historias*, &c. Oxoniæ 1662. sect. 30. p. 142, 143. Post Walsinghami Chronica—Magnus erit hiatus, & lacuna annorum ferè septuaginta, nisi à Polydoro Virgilio supplementa accersere placeat. Quod quidem in tantâ auctorum nostrorum penuria, non dedignabitur historiæ studiosus.

(e) *Polyd. Virg. Angl. Hist.* l. 23. p. 503.—At regina quæ virum armis repetere deliberarat, & ob id jam magnum exercitum fecerat, ubi cognovit hostes appropinquare, confestim obviam facta, eos prælio aggreditur—Cecidit in pugna Richardus Dux Eboracensis illius factionis caput.—

(f) Id. ibid.—Atque ita capto consilio Edovardus à suis rex declaratur, abrogata prorsus omni regia potestate Henrico quod non sterisset pacto, neque paruiisset senatusconsulti decreto.

(g) Id. ibid. l. 24. p. 505. Edovardus post Henricum profligatum, partim tanta victoria, partim communi principum populorumque ad se defectione elatus, triumphantis imperatoris ritu Londinum revertitur, convocatoque more majorum concilio, statim post ad Westmonasterium ad iii. Kalend. Julii, rex creatur, dein ex ejus sententia omnia Henrici regis constituta repudiantur, rescinduntur, tolluntur.

But this Advancement of *Edward* was not so permanent, (b) but that he was again overcome by *Richard* Earl of *Warwick* (once his great Friend) and forc'd to quit the Realm; and his Rival *Henry* VI. was freed out of Prison, and restor'd to his Royal Dignity, and *Edward* IV. declar'd an Enemy of his Country, in a Parliament convened at *Westminster*, and all his Decrees, Constitutions and Acts were rescinded. So various was those Princes Fortune, and so different were the Actions of those Parliaments. Yet this *Edward*, having again recover'd his Kingdom, (i) he call'd a Parliament at (k) *Westminster*, where all those Constitutions and Laws, which had been repeal'd by *Henry* VI. were revived; and (l) that last mention'd Prince and his (m) only Son *Edward* being slain, he triumphed over all his Enemies.

Disputes
between
the Houses
of York
and Lan-
caster.

But his eldest Son *Edward* had not so prosperous a Fortune: for, tho he is usually stil'd by the Name of King *Edward* V. yet was he never crown'd. 'Tis true, his only surviving Uncle, *Richard* Duke of *Glocester*, that Monster of Mankind for Deformity of Body and Cruelty of Mind, did (as (n) we are told by the Continuator of *Ingulphus's* History of *Croyland*, and who liv'd at (o) that Time) bring him up to *London* in a Regal manner, and plac'd him in the Bishop of *London's* Palace, and (together with the Duke of *Buckingham* his intimate Friend) made all the Lords Spiritual and Temporal, the Mayor and Aldermen of *London*, swear Fealty to *Edward* as King.

Edw. V.
not
crown'd.

Then the said (p) *Richard* getting himself stil'd Protector of the Kingdom, by the Consent of all the Lords (during his Nephew *Edward's* minority) whereby he had absolute Power to command or forbid any thing to be done, as much as if he had been really King; (q) and a certain Day being appointed for the Coronation of the young King, which while all with Impatience expected, for the Peace and Prosperity of the Kingdom, he having roughly treated the Queen (Wife of *Edward* IV.) and first imprison'd the young King's Relations and Servants, there (r) was presented, by way of a Petition to him in a Roll of Parchment, a Discourse (contriv'd doubtless by that Tyrant himself) wherein was shewn, that the Children of K. *Edward* IV. were Bastards, supposing that King to have been contracted with a certain Woman, call'd *Eleanor Boteler*, before he married Q. *Elizabeth*: More-

(b) Id. ibid. p. 514, 515.—Henricus toties victus regnare iterum incipit.—Post hæc Henricus circiter vi. Kalendas Decembrias, concilium ad Westmonasterium habet, in quo primum Edovardus patriæ hostis declaratur, quod regnum occupasset — deinde omnia decreta, constituta, acta ipsius Edovardi rescinduntur, &c.

(i) Id. ibid. p. 521. Edovardus quamvis non incruentam victoriam adeptus, ejus tamen lætitia majorem in modum sublatus cum Henrico captivo more imperatoris triumphantis, Londinum revertitur.

(k) Id. ibid. p. 525. Convocavit concilium ad Westmonasterium, in quo primum revocantur in pristinum usum omnia ab eo constituta & leges, quæ paulo ante ab Henrico VI. rescissæ fuerant, &c.

(l) Id. ibid. p. 525.—Henricus VI. paulò ante regno spoliatus, in turri morte est affectus. Hunc, ut fama constans est, Ricardus Glocestriæ dux gladio percussit.

(m) Id. ibid. p. 523.—Quem (i. e. Edvardum principem fil. H. 6.)—Georgius Clarentiæ, Ricardus Glocestriæ Duces, & Gulielmus Hastingsius, inde talionis poenam subituri, crudeliter trucidarunt.

(n) Historiæ Croylandensis continuatio p. 566.—Paucis exinde elapsis diebus, Duces antedicti (sc. *Richard* Duke of *Glocester* and the Duke of *Buckingham*) regem istum novellum (i. e. *Edwardum* 5.) usque *Londonias* more regali recipiendum deduxerunt; locantesque eum in palatio episcopi apud sanctum Paulum, coegèrunt omnes Dominos spirituales & temporales, Majoremque ac Aldermannos civitatis *Londoniarum*, eidem regi fidelitatis jura-

mentum præstare.

(o) Ibid. p. 578. Acta sunt hæc expleta apud *Croylandiam*, anno Dom. MCCCCLXXXVI.

(p) Ibid. p. 566. Accepitque dictus *Richard* Dux *Glocest.* illum solennem magistratum, qui Duci *Humfrido* *Glocestriæ*, stante minore ætate regis *Henrici*, ut regni protector appellaretur, olim continebat, ea igitur auctoritate usus est, de consensu & beneplacito omnium dominorum, præcipiens & prohibens in omnibus tanquam alter rex, prout casus exigebat.

(q) Ibid. (scil. Hist. *Croyland.* continuat.) p. 566.—statutoque festo nativitatis sancti *Johannis Baptistæ* pro die certo in quo coronatio prædicti regis infallibiliter perficeretur, sperabant & expectabant universi pacem & prosperitatem regni. Maximum autem quod dubietatis scrupulum ingerebat, erat detentio consanguineorum & servientium regis in carcere; & quod dictus protector non satis humaniter respiciebat honori & securitati reginæ.

(r) Ibid. p. 567. Ostendebatur per modum supplicationis in quodam rotulo pergameni, quod filii regis *Edwardi* erant bastardi, supponendo illum præcontraxisse cum quadam Domina *Alionora Boteler* antequam reginam *Elizabeth* duxisset uxorem; atque insuper quod sanguis alterius fratris sui, *Georgii* Ducis *Clarentiæ*, fuisset attinctus; ita quod hodiè nullus certus & incorruptus sanguis linealis ex parte *Richardi* Ducis *Eboraci* poterat inveniri, nisi in persona dicti *Richardi* Ducis *Glocestriæ*. Quocirca supplicabatur ei in fine ejusdem rotuli, ex parte Dominorum & Communitatis regni, ut jus suum in se assumeret.

over, That the Blood of his other Brother, *George Duke of Clarence*, was attainted, so that none of the lineal Blood of *Richard Duke of York* could be found uncorrupted but in himself. Wherefore there was at the conclusion of that Roll, an Address to him from the Lords and Commons of the Kingdom, That he would take the Government upon himself.

This fine Artifice, assisted on one side with his feign'd Excuses, which induc'd the less thinking sort of People to believe he desir'd not the Royalty, and prop'd up on the other with fear of his Power, facilitated his Accession; so that at last (s) he and his Wife *Anne* were solemnly crown'd King and Queen at *St. Peter's Church in Westminster*.

And by these Steps did that inhumane Prince, who had no Title to the Crown, either strictly by Descent, or by Merit, ascend the *English Throne*.

But (t) the horrid Murder of his two Nephews, Sons of his Brother *Edward*, and Heirs of the Crown, perpetrated by his Order, and the many other Tragedies acted by the same, so much procur'd him the universal Odium, that *Henry Earl of Richmond*, Son of *Margaret Countess of Richmond*, who was the sole Heir of the House of *Lancaster*, entring the Nation in a martial manner, and engaging in Fight at *Bosworth* with the Tyrant *Richard*, a Period was there put to his Usurpation and Life at once, and to the Pretensions of the jarring Families of *York* and *Lancaster*.

Hen. VII.
his Title.

For tho this Earl *Henry* was even in the abovesaid *Bosworth* Field crown'd King by *Thomas Stanly*, (v) who having, among the Spoils of that Victory, found that Diadem which the late King *Richard III.* wore, set it upon the Head of the victorious *Henry*; and albeit in the crouds of People which (x) all a-long accosted him he was saluted King: Yet could he not look upon these Actions, how pleasant soever in themselves, as a firm Basis upon which to fix his Royalty and future Happiness. Therefore having within (y) few months after his glorious and (to the whole Nation) fortunate Victory, call'd a Parliament at *Westminster*, he is there created King by the Command, as *Polydore Virgil* terms it, or rather by the Election of the Nobility and People (z), after there had, in a Privy Council convened upon his coming to *London*, been a Day set down when the said *Henry* was to marry *Elizabeth*, the Heir of the House of *York*, and indeed the true Heir of the *English Crown*: Which was (a) afterwards accordingly perform'd to the general Satisfaction of the Nation, who thereby saw themselves freed from their Fears of having the Wars continued, and themselves become a Prey to those Rivals for the *British Throne*.

Since by these happy Nuptials, *Henry*, Heir to the House of *Lancaster*, as Son to *Margaret* Daughter of *John Duke of Somerset*, Son to *John Earl of Somerset*, Son to *John of Gaunt*, fourth Son of *Edward III.* was join'd to *Elizabeth* Daughter and Heir to *Edward IV.* Son to *Richard Duke of York*, Son to *Richard Earl of Cambridg*, Son to *Edmund of Langley*, fifth Son of *Edward III.* *Elizabeth's* Great Grand-Father *Richard Earl of Cambridg*, having married *Anne* Daughter and Heir of *Roger Mortimer Earl of March*, and of *Philip* Daughter and Heir of *Lionel Duke of Clarence*, third Son of *Edward III.*

But before the Solemnization of that fortunate Union, *Henry*, now made King by the Name of *Henry VII.* (b) in this his first Parliament fix'd his Title to the

(s) Ibid. p. 567. His itaque gestis, dictus Richardus Glocestria, accito Thoma Cantuariensi Archiepiscopo Cardinali—in Ecclesia conventuali sancti Petri apud Westmonasterium, regalis unctionis coronationisque munus accepit, simulque eisdem die & loco coronam accepit conjux sua Anna.

(t) Polydor. Virgil. hist. Anglic. l. 25. p. 539, 540. Quocirca per literas Roberto Brachynburio praefecto turris Londinensis mandat, ut aliquo honesto modo nepotes ipsos quam primum necandos curet.—Id. ibid. p. 540.—Ita Edovardus princeps cum Ricardo fratre interiit—

(v) Id. ibid. p. 557, 558. Henricus adeptam statim victoriam, Deo optimo maximo multis precibus acceptam retulit—milite interea cum magno clamore regem salutante, plaususque libentissimo animo dante. Quo viso Thomas Stanleius coronam Richardi inter spolia repertam capiti protinus imposuit, perinde ac si jam populi jussu rex fuisset

more majorum renunciatus.

(x) Id. lib. 26. p. 559. Interea Henricus iter Londinum versus facere coepit, ingenti passim agrestium læticia & congratulatione cum regem appellantium, &c.

(y) Id. ibid. Postea coacto ad Westmonasterium concilio, pridie calend. Novemb. Henricus principum atque populi jussu, rex creatur.

(z) Id. ibid.—Concilium more majorum indicitur, ac dies dictus, quo Henricus Elisabeth puellam in matrimonium duceret.

(a) Id. ibid. p. 560—Restabat ad corroborandum præsentem rerum statum, ut Elizabeth puellam Edovardi filiam perinde ac pollicitus erat, sibi matrimonio jungeret, quod & fecit.

(b) Id. ibid. p. 559.—Henricus principum atque populi jussu, rex creatur, dictusque est Henricus ejus nominis septimus.

Crown upon another Pillar than that ensuing Marriage: For (as we are told (c) by one who wrote a Continuation of *Ingulphus's* History, and who liv'd at the same Time himself) in that Parliament, the Kingdom was confirm'd to King *Henry* as if it had been due to him, not by one but many Titles: So that, as he saith, he may as justly be believ'd to have obtain'd the Government of the People of *England* upon the Right of Victory and Conquest, as of Blood. Wherefore (adds my Author) there were some Men who thought, that it had been better if such Words had been omitted than expressed in the Act; and the rather, because in the same Parliament, his Marriage with *Elizabeth*, eldest Daughter of King *Edward* (as hath been already mention'd) had been discours'd of, and assented to by the King; in the Person of which Princess there seem'd enough, in the Opinion of every body, to supply whatsoever Defect there appear'd in the Title of the King—who certainly could not, unless upon the score of Conquest, pretend with any shew of Reason or Justice to the Possession of this Crown by Descent or Blood, since his (d) Mother, from whom he deriv'd his Title, was then alive, and ought consequently to have inherited it antecedent to him; so that he had no Medium left to make use of, and no better Step whereby to mount the Throne before his Marriage (as he really did) with the Inheritrix of the *Yorkish* Family, than either to do it by the Sword or by Election. The latter of which he seem'd wholly to lean his Title upon. For tho, (e) as our learned Lord Chancellor Sir *Francis Bacon* tells us, He had three Titles: The First, The Title of the Lady *Elizabeth*, with whom by precedent Pact with the Party who brought him in, he was to marry: The Second, the antient and long disputed Title (both by Plea and Arms) of the House of *Lancaster*, to which he was Inheritor (but there I beg the Chancellor's Pardon, for his Mother was the true Heir and not he) in his own Person: The Third, the Title of the Sword or Conquest, for that he came in by Victory of Battel, and that the King in Possession was slain in the Field. Yet (f), as the same excellent Author informs us, in the Act of Parliament after his Coronation, he did not press to have the Act penn'd by way of Declaration or Recognition of it; as on the other side, he avoided to have it by a new Law or Ordinance, but chose rather a kind of middle Way, by way of Establishment, and that under Covert and indifferent Words, that the Inheritance of the Crown should rest, remain and abide in the King, &c.

Which words might be equally apply'd, That the Crown should continue to him: But whether as having former Right to it, which was doubtful, or having it then in Fact or Possession, which no Man deny'd, was left to a fair Interpretation either way.

Thus have I brought down the History of the Succession of the *English* Crown, at least from the beginning of the *Saxon* Monarchy, till the two contesting Houses of *York* and *Lancaster* were by a Marriage united into one, whereby those Quarrels about this Scepter, so long and so furiously managed, were laid asleep, and those Convulsions of State, in which the Health, Vigor and Strength of the Nation did so visibly decline, were thereby in a manner forgotten. I need not carry the Thread of this History any lower—For besides that these Changes, which happen'd after that celebrated Union so lately mention'd, are obvious enough to any Person who hath made the least enquiry into the Manner and Motives which induc'd the major part of this Kingdom to throw off the heavy Yoke of the Pope's Supremacy; so the History thereof is so interwoven with that of our happy Reformation, that I cannot herein do the Reader a greater kindness, than refer him to the well-penn'd History of the said Reformation, compos'd by the learned Dr. *Burnet*, now Lord Bishop of *Salisbury*, which hath for several Years been the Subject of Protestant Elogies and *Romish* Pasquils. And as it hath sufficiently merited the former, so hath its

(c) *Historia Croylandensis Continuatio*—p. 581. In hoc Parlamento confirmatum est regnum Domino regi, tanquam sibi debitum, non ex uno sed ex multis titulis, ut non tam sanguinis quam victoriæ bellicæ conquestusque jure rectissime populo Anglicano præsidere credatur: Fuerant qui consultius æstimabant, verba ejusmodi silentio potius quam edicto committi; eo potissime, quod in isto eodem Parlamento tractatum est, atque per regem assensum, super matrimonio *Elizabeth* primogenitæ regis *Edwardi*, in cujus persona visum omnibus erat posse suppleri, quicquid aliunde ipsi

regi deesse de titulo videbatur.

(d) That she (i.e. the Countess of Richmond) was living after K. Henry VII. came to the Crown, is evident enough from her founding St. John's College in Cambridg, which by Henry Isaacson is placed in Ann. Dom. 1506. several Tears after her Son's coming to the Crown. See Isaacson's Chronology, fol. 473. and Polyd. Virgil. hist. Angliæ. l. 26.

(e) *The History of Henry VII.* by Francis Lord Verulam Viscount St. Alban, London 1676. p. 2.

(f) Id. ib. p. 7, & 8.

Author, with clearness of Truth, Strength and Judgment, an accurate Stile and undeniable Reasons, as often baffled those *Romish* Champions, as they have shewn their Zeal, or have had the Courage to attack him and it.

It remains, that I subjoin this for an undeniable Truth, That through the whole Series of this History, whatsoever Deviations there might be in the Succession from the direct Line, whether by absolute Force or insinuating Election, the whole Royal Family of *Cerdic* who founded the *West-Saxon* Kingdom, was never wholly laid aside, but in the unsettled Times of the *Danish* and *Norman* Usurpations, and when *Harold II.* appear'd upon the *English* Throne—Which to me seems an undeniable Proof (whatsoever others may pretend to the contrary) That the *English* Crown hath been hereditary for near nine hundred Years, since in all Elective Monarchies, the whole Line as well as particular Persons have usually been laid aside; and whenever that was not, the advancement of the Regal Dignity was own'd to be an effect of pure Merit and Choice, and not that of an inherent Right in their Family.

Soli Deo Gloria.

An

An Historical Account of some Things relating to the Nature of the English Government, and the Conceptions which our Forefathers had of it.

THE PREFACE.

I Would not have the Reader think that I approve of every thing related in this Historical Account. That which I think my self concern'd to make good is this,

1. That what I do relate as History, is historically true; or that it is deliver'd without fraud, or wilful perversion of the Authors cited.

2. That what I lay as the Foundation of my Inferences, is sufficiently confirm'd by what I have deliver'd in this History.

That may perhaps be useful for many other Ends relating to our late happy Change, but they are obvious in themselves, and were not chiefly design'd by me, and therefore are not mention'd here. Farewel.

SECTION I.

That from the Norman Conquest, to this present Time, there was an Original Compact or Establishment of Laws, by which the Kings of England were to govern, and the People to be govern'd.

I Am apt to think it may be want of due consideration of the History and Constitution of our Government, which makes some worthy Persons of the Clergy so stiff in their refusal of the Oath of Allegiance to King *William* and Queen *Mary*. Now the great Mischief which this unhappy Division may bring upon the Protestant Religion, both at home and abroad, and the vile Imputations which are cast on that great Body of the Clergy which hath taken this Oath, will justify our Endeavours to set this Matter before them in the clearest Light, and to let others know what hath been done by our Forefathers to secure their Laws and Liberties; what Compacts they made with their Kings; how uneasy they were under the Violation of them; and what Conceptions they had touching the Nature and Constitution of the *English* Government, and touching the Allegiance due to their Prince.

Now in order to these things let it be observ'd,

First, That *Florence of Worcester*, *Simeon of Durham*, and *R. Hoveden*, expressly say, That *William* call'd the Conqueror, (a) 'made a League or Compact with the Archbishops, Bishops, Earls and Nobles of the Land, who met him at *Beorcham*.

(a) Ubi Aldredus Archiepiscopus, Wulfunus Wigorniensis Episcopus, Clito, Eadgerus Comites, Eadwinus & Morcarus, & de Lundoniâ quique Nobiliores, cum multis aliis ad eum venerant, & datis

obsidibus illi deditionem fecerunt, fidelitatemque juraverunt, cum quibus & ipse foedus pepigit. Durnelm. p. 195. Flor. Wig. p. 635. R. Hov. f. 258.

Secondly,

Daniel,
p. 36.

Secondly, That the aforesaid Authors, with *John Brompton*, declare, That as the Bishops and Barons of the Realm swore Fealty to him, (b) 'so he reciprocally, being requir'd so to do by the Archbishop of York, made his personal Oath before the Altar of St. Peter, to defend the Holy Church of God, and the Rectors of the same, to govern all the People subject to him justly, to establish equal Laws, and to see them duly executed.

Ib. p. 37.

And when new Commotions were made by the Nobility, and Clergy, upon their Submission and Oath of Allegiance re-taken, 'he (c) himself takes his Personal Oath again before Archbishop *Lanfranc*, and the Lords, for the good of Peace, 'to observe the antient Laws of the Realm, establish'd by his Predecessors the Kings of England, and especially of *Edward the Confessor*: and this so pacified the English, that they went joyfully to their own Homes.

Thirdly, *Matthew of Westminster* saith, That when the two Sons of *Swain* came into England to fight against it, the (d) Conqueror recalling many of the English Nobles, made a League with them, and by their Aid he overcame the Danes. And that this League contain'd the Grant of their Rights and Liberties, or the Laws of their Country, is evident from what follows in the same Historian, viz. (e) 'That the Conqueror being thus secur'd, in many things violated his Promises, taking from the Churches and Monasteries in which they lay, the Charters, in which the Nobles of England confided, and to which he had sworn when he was in straits.

Fourthly, *R. Hagulstadenfis*, *S. Dunelmensis*, *R. Hoveden*, *M. Paris*, *Henry of Knyghton*, and *W. of Malmesbury* inform us, That (f) 'Henry the First granted to all the People the Laws of *Edward*, with the Emendations which his Father had made of them, strengthening them with his own Oath, and the Oath of all his Nobles, that they might not be eluded. And *W. Lambard* cites this as one of the Laws of *W. the Conqueror*: 'This also we command, That all Men have, and keep the Laws of King *Edward*, with the Additions we have made to them for the benefit of the Englishmen.

Fifthly, The Chronicle of *Lichfield* doth inform us, 'That (g) the whole Community of England sued to the Conqueror that he would permit them to have the proper Laws, and antient Customs in which their Fathers had lived, and under which they were born and educated, viz. The Laws of *St. Edward*: And that the King consented to their Petition.

Sixthly, *Ingulphus* his Secretary, saith, (h) 'That he, under the severest Penalties, proclaim'd, that the Laws of King *Edward* should be perpetual, authentical, and be observ'd inviolably through the whole Kingdom of England; and as such he commended them to his Justices.

(b) Ipso Nativitatis die ab Aldredo Eboracensium Archiepiscopo in Westmonasterio consecratus est, honorificè prius, ut idem Archipræsul ab eo exigebat, ante Altare Sancti Petri Apostoli, coram Clero & populo, jurejurando promittens se velle Dei Sanctas Ecclesias, & earum Rectores defendere, necnon & cunctum populum sibi subiectum justè, & Regali providentiâ, verè regere, rectam legem statuere, & tenere, &c. Flor. Wigorn. p. 634, 635. Dunelm. p. 195. Hoved. F. 258. Chron. Joh. Brompt. p. 962.

(c) Occurrerunt igitur Angli memorati, ubi post multas disceptationes, præsente Archiepiscopo Lanfranco, Rex, pro bono pacis, juravit, tactis Sacrosanctis Evangeliiis, bonas & approbatas antiquas Regni leges, quas Sancti & Pii Angliæ Reges ejus Antecessores, & maximè *Edvardus* statuit, inviolabiliter observare, & sic pacificati ad propria lati recesserunt. M. Paris in vitâ 23. Monach. p. 30.

(d) Et sic revocatis multis Anglorum Nobilibus, foedere cautius cum omnibus confirmato, Eboracum, ubi fuit Danorum receptaculum, potenter cum ibi inventis, expugnavit. A. D. 1069.

(e) Jam factus securior, in multis promissa violavit, Monasteria totius Angliæ perscrutari fecit, & pecuniam simul cum Chartis, in quarum libertatibus Nobiles Angliæ confidebant, & quas Rex, in arcto

positus, observaturum se juraverat, ab Ecclesiis, ubi in securo posita erant, auferri præcepit violenter. Ibid. p. 226.

(f) Legem R. Edvardi vobis reddo cum aliis emendationibus, quibus pater meus eas emendavit concilio Baronum suorum. R. Hagulst. p. 311. Dunelm. p. 225, 226. Hoved. par. 1. p. 268. M. Paris, p. 38. Henr. de Knyght. p. 2374. Malmesb. l. 5. F. 88. Hoc quoque præcipimus, ut omnes habeant, & teneant legem Edvardi Regis in omnibus rebus, adauctis iis quas constituimus ad utilitatem Anglorum. Apud Seld. Annot. ad Eadm. p. 192.

(g) Postea ad preces communitatis Anglorum Rex adquevit, qui deprecati sunt quatenus permetteret sibi leges proprias, & consuetudines antiquas habere in quibus vixerant patres eorum, & ipsi in iis nati & nutriti sunt, sc. leges Sancti Edvardi; & ex illo die magna Authoritate veneratæ, & per universum Regnum corroboratæ, & conservatæ sunt præ cæteris Regni legibus, leges R. Edvardi. Chron. Eccl. Lichfield. Seld. ibid. p. 171.

(h) Attuli mecum de Londoniis leges aequissimæ R. Edvardi quas dominus meus Rex W. Authenticas esse, & perpetuas per totum Regnum Angliæ inviolabiliter observandas, sub pœnis gravissimis, proclamârat, & suis justitiariis commendârat, p. 88.

Seventhly,

Seventhly, R. Hoveden informs us, 'That (i) he commanded the Laws of King Edward to be observ'd in all things: and that in the fourth Year of his Reign, by the Counsel of his Barons, he made the Noble and Wise Men of England to be summon'd throughout all the Provinces of England, that he might hear from them who were skill'd in their Law, their Rights and Customs; and that twelve Men were chosen out of every County, who swore, to their power, to tread in a right Path, neither turning to the right hand or to the left, and to make known to him the Custom, and the Establishments of their Laws. And then he adds the very Words contain'd in the Chronicle of Lichfield.

Now all these things put together, seem plainly to conclude an Original Compact or Establishment of Laws, by which the Kings of England were to govern, and the Kingdom to be govern'd; and the continuance and renewal of that Establishment by our succeeding Kings, such as (k) Malmesbury stiles our *Patriæ Leges*, and the Statute of Henry the Eighth, *the accustom'd and antient Laws of this Realm originally establish'd*. An Original Compact.

Add to this then that Rule of Grotius, (l) 'That Succession is not a Title of Empire which gives the Form to it, but is only a continuation of the old Title; the Right begun by the Election of the Family, being continued by Succession. And thence with him we may reasonably infer, that Succession only brings down to Kings what the first Election gave, and makes them only Kings according to the Compact, and with the Conditions agreed on as the first Admission of their Progenitors to the exercise of the Royal Authority.

S E C T. II.

That they thought it absolutely necessary, that whosoever would be their King, should make this Compact with them, and be as much oblig'd by Oath to grant these Privileges to them, as they were to swear Allegiance to him.

2dly. OUR Kings well knowing what a Reverence the Community had for their Laws, found no better Means to gain, or to secure to themselves the Crown, and to pacify the discontented Parties than by fair Promises, and Engagements to maintain or grant to them their Laws. Eadmerus informs us concerning W. Rufus, That (m) 'desiring to forestal his elder Brother Robert in getting the Kingdom, he pawn'd his Faith and Oath, that if they would make him King, he would in all things observe Justice, Equity, and Mercy throughout his Kingdom, and defend the Peace, Liberty, and Security of the Church against all Men.

When his Brother Robert was come into England to claim his Right, and he had many of the Nobility who favour'd him, and sided with him, W. Rufus calls the Normans, and English Nobility to London; & *leges statuens*, and there establishing the Laws, he march'd with them against his Brother, saith Florence of Worcester. He bound them to him, saith Matth. Paris, *faciles leges promittendo*, by promising them easy Laws; as those of King Edward were by them stiled and accounted. He sweetned them, saith John Brompton, by promising he would establish *meliores leges quas sibi vellent eligere*, those more acceptable Laws which they would chuse. Now those we know, by their Request in his Father's days, were the Laws of Edward, and they with the Emendations of his Father were the Laws then establish'd. W. Rufus. P. 642. P. 10. P. 984.

(i) W. Rex, quarto Anno Regni sui, consilio Baronum suorum, fecit summoneri per universos consularius Angliæ, Anglos Nobiles, & Sapientes, & suâ lege eruditos, ut eorum & jura & consuetudines ab ipsis audiret. Electi igitur de singulis totius patriæ comitatibus viri duodecim, jurejurando confirmantur primò ut, quoad possent, recto tramite, neque ad dextram neque ad sinistram partem divergentes, legum suarum consuetudinem & sancita patefacerent. Hoved. par. post. F. 343.

(k) Hist. Nov. F. 186. A. 25 H. 8. c. 21.

(l) Successio non est titulus Imperii, qui Impe-

rio formam assignat, sed veteris continuatio; jus enim ab electione cœptum, familiæ succedendo continuatur, quare quantum prima electio tribuit, tantum defert successio. De jure Bell. & Pac. l. 1. c. 3. Sect. 10.

(m) Cum Regni fastigia fratri suo Roberto præriperet, cœpit tam per se, quam per omnes quos poterat, fide sacramentoque Lanfranco promittere justitiam, æquitatem & misericordiam se per totum Regnum, si Rex foret, observaturum; pacem, libertatem, securitatem Ecclesiarum contra omnes defensurum. P. 13.

P. 490,
491.
Hen. I.

These Promises he very little regarded after his Agreement made with his Brother Robert; but falling sick, at the suggestion of his Barons, he again promis'd to God, saith *Radulphus de Diceto*, *Rectas leges statuere*, to establish right Laws.

Henry the First his Successor, in the beginning of his Reign, saith (n) 'R. Hagulstadenfis, gave to the People their just Laws and Liberties, confirming them with his Charter, and his Seal. *Dunelmensis*, *R. Hoveden*, *Florence of Worcester*, *Will. of Malmesbury*, *Matth. Paris*, and *Henry of Knyghton* say, That on the very day of his (o) Consecration he granted to all his People the Laws of Edward, with the Emendations which his Father had made of them. (p) *Henry of Huntington*, and *John Brompton* say, That having promis'd a desirable Melioration of the Laws and Customs, he was consecrated by *Maurice Bishop of London*. *Matth. Paris* saith most expressly, That (q) 'Henry having assembled the Clergy, and all the People of England, that he might dispose their Minds to the Love and the Promotion of him, and the taking him for their King and Patron, promis'd them the Emendation of the Laws by which England had been oppress'd in the Time of his Brother; and that all the Clergy and Nobility answer'd, That if he would freely grant to them, and confirm by his Charter those Liberties and antient Customs which flourish'd in the Time of King Edward, they would unanimously consent to receive him for their King; and that upon his Consent, and Oath to do so, he was created King at Westminster. And when his Brother Robert came to challenge the Crown as his by Right of Succession, and the Concord made between him and his Brother Rufus, to animate his Subjects to stand by him, he speaks thus to them: (r) 'I your mild King am desirous to preserve you in your antient Liberties, as I have often promis'd upon Oath——And commanded all things to be inviolably observ'd, which holy King Edward, by the Inspiration of God, advisedly establish'd.

K. Stephen.

Stephen succeeded him, and he, to get the Kingdom, (s) promisetb a Melioration of their Laws according to their Minds. Our Historians tell us, That (t) on the day of his Coronation he made a Compact with his Church and People, which afterwards at Oxford he swore to observe. And one of the Terms of this Compact was, (v) That he would observe good Laws, and antient and just Customs in Hundreds, and Pleas, and other Causes.

Hen. II.

Henry the Second follows him at the beginning of his Reign, (x) establishing Peace in his Kingdom, and commanding the Laws of Henry the First his Grand-father to be inviolably observ'd throughout his Kingdom.

Rich. I.

Richard the First succeeds him, and (y) 'promiseth upon Oath at his Coronation these three things, viz. 1. That he would give Peace, Honour, and Reverence to God, and the Church, and her Clergy, all the days of his Life. 2. That he would exercise true Justice and Equity to the People committed to his Government. 3. That he would put away all evil Laws, and perverse Customs, which

(n) Ipse in principio Regni sui leges justas & libertates populo dedit, chartâ confirmavit, sigillo corroboravit. P. 310.

(o) Qui consecrationis suæ die—legem Regis Edvardi omnibus in commune reddidit cum illis emendationibus quibus pater suus illam emendavit. *Dunelm.* p. 225, 226. *Hoveden*, p. 1. F. 268. B. *Flor. Wigorn.* p. 650. *W. Malmesb.* F. 88. *M. Paris*, p. 38. *H. de Knyghton*, p. 2374.

(p) Pag. 216. E. *Chron.* p. 997.

(q) *Henricus*—congregato Londoniis clero Angliæ, & populo universo, promisit emendationem legum quibus oppressa fuerat Angliæ tempore patris sui, & fratris nuper defuncti, ut animos omnium in sui promotionem accenderet, & amorem, & ut illum susciperent in Regem & Patronum. Ad hæc clero respondente, & Magnatibus cunctis, quod si animo volente ipsis veller concedere, & chartâ suâ communire illas libertates & consuetudines antiquas quæ floruerunt in Regno tempore Sancti Regis Edvardi, in ipsum consentirent, & in Regem unanimiter consecrarent. *Henrico* autem hoc libenter annuente, & se id facturum cum juramento affirmante, consecratus est in Regem apud Westmonasterium. P. 38.

(r) Ego vero Rex humilis & pacificus vos in pace in antiquis vestris libertatibus, prout crebrius ju-

rejurando promisi, gestio confovere—omnia videlicet quæ sanctus Rex Edvardus, Deo inspirante, provide sancivit, inviolabiliter jubeo observari. *Ibid.* p. 42.

(s) Meliorationem legum promisit juxta voluntatem & arbitrium singulorum. *M. Paris*, p. 51. *R. Hagulstad.* p. 314, 315. *Chron. Jo. Brompt.* p. 1024.

(t) Confirmavit Pacta quæ Deo & populo atque Ecclesiæ Sanctæ in die Coronationis suæ concesserat. *Matth. Paris*, p. 51.

(v) Bonas leges, & antiquas & justas consuetudines in Hundris & Placitis & aliis Causis observabo. *Rich. Hagulstad.* p. 314.

(x) Ipse pacem stabilivit in Regno, & leges Henrici sui præcepit per totum Regnum suum inviolabiliter teneri. *Hoved.* par. 2. F. 281. B.

(y) Juravit quod ipse omnibus diebus vitæ suæ pacem, & honorem, & reverentiam Deo, & Sanctæ Ecclesiæ, & ejus ordinatis portaret. 2. Quod rectam justiciam, & aequitatem exerceret in populo sibi commisso. 3. Quod malas leges & consuetudines perversas, si quæ in Regno suo inductæ sunt, deleteret, & bonas leges conderet, & sine fraude & malo ingenio eas custodiret. *Hoveden* F. 374. A. *M. Paris*, p. 108. *Rad. de Diceto Imag. Hist.* p. 647. *Chron. Joh. Brompt.* p. 1157.

'were

‘ were introduc’d into his Kingdom, and would make good Laws, and maintain
‘ them without Fraud and evil Inclination. Then the Archbishop of Canterbury
(z) conjures him by God not to take upon him this Honour, unless he uprightly intended to
perform what he had sworn; and when he answer’d, That by the help of God he intended
so to do, the Archbishop puts the Crown upon his Head.

King John at his entrance on the Government, took the same Oaths for substance K. John.
which his Predecessor Richard had done, swearing (a) ‘ to preserve the Church
‘ and her Dignities from harm; to abolish unjust Laws, and to establish good, and
‘ to exercise right Justice. And he was also by the Archbishop conjur’d not to take
‘ upon him the Kingly Honour, unless he really intended to perform his Oath.
When he was absolv’d from his Excommunication by the Archbishop at Winchester,
he was by him compell’d to swear, (b) ‘ That he would destroy all unjust Laws,
‘ and would restore good Laws, viz. the Laws of King Edward, and cause them to
‘ be observ’d of all throughout his Kingdom.

King Henry the Third was but nine Years old when he succeeded King John, and Hen. III.
in the ninth Year of his (c) Reign he granted to all his Clergy, his Nobles, and his
People, his *Magna Charta*, and his Charter of the Liberties of the Forest; and by
these Charters he confirms to them *libertates & liberas consuetudines quas prius habue-*
rant, the Liberties and free Customs which they had before. *Matth. Paris* saith, P. 274:
‘ That he exacted the fifteenth part of the Moveables, both of the Clergy and of
‘ the Laity; and that they promis’d to grant them, *si ille diu petitas Libertates con-* P. 223:
cedere voluisset, provided he would give them the Liberties they had so long de-
‘ sir’d: And that accordingly he gave them these two Charters, which were the
‘ same that had been granted by King John. The Barons requiring a confirmation
of these Liberties from the King, *William Briwere*, one of the King’s Council, an-
swer’d, (d) ‘ That the Liberties which they demanded were not to be observ’d,
‘ because they were violently extorted. The King reply’d, All of us have sworn
‘ to these Liberties; and that which we have sworn, all of us are bound to observe.
And the truth is, at the conclusion of the Peace with Lewis the King, the Legate
and Earl Marshal (e) ‘ swore that the King should restore to the Barons, and
‘ others, all their Rights and Inheritances, with all the Liberties formerly de-
‘ manded of his Father. And in the Year 1225. the King again drawn with the
‘ desire of Money, (f) grants those his Charters under his Seal, and Oaths were
‘ taken by Royal Commandment to tie all Men to the observation of the said
‘ Grants.

Edward the First was declar’d King, and Successor of his Father when absent in Edw. I.
Palestine; and returning into *England*, is crown’d in the second Year of his Reign,
and in the Third calls a Parliament at *Westminster*, where he hears the Complaints
of the ill Government of the Realm, and the Church, and makes that wholesom
Statute to relieve them, which is call’d the *first Statute of Westminster*.

At the Coronation of Edward the Second, the Earls and Barons of *England* Edw. II.
treated of the State of the Kingdom, requesting the banishment of *Peter of Ga-*
veston from the Kingdom, and that (g) *Baronum suorum vellet consiliis tractare Reg-*
ni negotia; He would transact the Business of the Kingdom by the Council of his Barons.
Which the (h) King denying to grant, the Nobles endeavour’d to hinder his Coronation;
which the King understanding, promised faithfully, in the next Parliament, to do that which
they desired.

(z) Conjuratus est ab Archiepiscopo ex parte Dei, & prohibitus ne hunc honorem acciperet, nisi in mente habeat Sacramenta tenere quæ fecit; & ipse respondet, se per auxilium Dei bona fide observaturum omnia supradicta. Ibid.

(a) In coronatione sua R. Johannes triplici involutus est Sacramento, viz. quod Sanctam Ecclesiam, & ejus ordinatos diligeret; quod perversis legibus destructis, bonas constitueret, & rectam justitiam in Regno Angliæ exerceret: deinde adjuratus est ab Archiepiscopo ex parte Dei, & districtè prohibitus ne honorem hunc accipere præsumeret nisi in mente habuit opere quod juraverat adimplere. Chron. Burton. p. 256. R. Hoveden F. 450. M. Paris, p. 138.

(b) Audistis quomodo ipse apud Wintoniam

Regem absolvi, & ipsum jurare compulerim quod leges iniquas destrueret, & leges bonas, viz. leges Edwardi, revocaret, & in Regno faceret ab omnibus observari. M. Paris, p. 166, 167.

(c) Annales Mon. Burton. p. 271, 276.

(d) A. D. 1223. Speed, p. 581.

(e) Speed, p. 578.

(f) Ibid. p. 583.

(g) Hypodygm. Neustr. p. 500.

(h) Rex noluit consentire, idcirco proposuerunt comites Coronationem Regiam impedire; quod Rex intelligens, promisit bona fide se facturum illis in proximo Parlamento quicquid peterent, tantum ne Coronatio differatur. Walsing. Hist. Angl. p. 96.

Rich. II.

At the Coronation of *Richard* the Second, (i) ' One of the Bishops makes an Oration to the People concerning the Constitution of the King and Kingdom, how the King should behave himself to them, and in what things they were to obey him: This being done, the King swears before the Archbishop and Nobles, That he would permit the Church to enjoy her Liberties, and would honour her and her Ministers. 2. That he would cause the good Laws of the Land to be observ'd every where, especially those of *St. Edward*. 3. That he would be no acceptor of Persons, but would exercise right Judgment between Man and Man, and especially would shew Mercy. This being done, the Archbishop, the Marshal being present, turns himself to all the Quarters of the Church, declaring to the People the King's Oath, and asking them, If they would subject themselves to such a Prince and Governor, and would obey his Commands; to which they all answer'd, That they would willingly do it.

W. II. H. I.
and King
Stephen
had the
Peoples
Consent.

Here then you see that *William Rufus*, *Henry* the First, and *Stephen*, get the Consent of the People by virtue of this Promise, to grant them their usual Laws and antient Customs; that *Henry* the First, *Richard* the First, and *King John*, and *Richard* the Second at their Coronation oblige themselves by Oath to grant them. And upon these Obligations the People, Nobles, Bishops, and Commons, consent to own them as their King; that the Archbishops conjure *Richard* the First, and *King John*, not to take upon them the Crown, unless they uprightly intended to perform these Oaths; that all of them at the beginning of their Reigns, by Oaths or Promises, oblige themselves to grant these Laws and Customs to the People; and that if any scrupled so to do, the Nobles thought it their Concern to hinder his Coronation, till he had either made or promis'd this Engagement.

They therefore thought it absolutely necessary, that whosoever would be their King, should make this Compact with them, and be as much engag'd by Oath to grant these Privileges to them, as they were to swear Allegiance to him; and commonly that this should be first done by their Kings before they would engage to be their Subjects. And then it must be as necessary that he who doth continue to be their King, should continue to perform his Oaths, and grant these Privileges to his People.

S E C T. III.

That when the antient Laws of their Country were wholly violated, they constantly complain'd of the Injustice of the Action, requir'd the observation of them; and when they could not prevail by fair means, they sought to recover their Right by Arms. Where an account is given of the Barons Wars for the preserving of the Magna Charta, and the Charta de Forestis.

FOR farther evidence of this Matter, let it be consider'd, 3dly, That when these *Patriæ Leges*, these antient Laws of their Country, were violated, they constantly complain'd of the Injustice of the Action, requir'd the observation of them; and when they could not prevail by fair Means, they revolted from their Subjection, and sought to recover their Right by Arms. This they require of *W. Rufus* when he was sick: And it was probably for neglect of these good Laws, that most of the Nobility, saith *Matth. Paris*, did, *unavariè conspirare*, conspire against him with one fury. For the same Reason was it, that when *Robert* came against *King Henry* the First, a great part of the Navy went over to *Robert*; for this they did, saith *Matth. Paris*, *quia Rex jam tyrannizaverat*, because the King was become a Tyrant, i. e. he govern'd not according to Law.

P. 10.

P. 40.

(i) Tunc Episcopus Sermonem fecit de materiâ Regis & Regni ad populum, qualiter Rex se haberet in populo, & in quibus populus sibi debuit obedire: quo completo, juravit Rex, coram Archiepiscopo & proceribus, quod Ecclesiam suis permitteret gaudere libertatibus, & eam & Ministros ejus honoraret. 2. Ut leges terræ bonas ubique observari faceret & præcipuè leges Sancti Edvardi. 3. Ut

non esset personarum acceptor, &c. Quibus expletis Archiepiscopus convertit se ad omnes plagas Ecclesiæ, indicans populo Regium juramentum, & querens si se tali Principi & Rectori subicere, & ejus jussionibus obtemperare vellent; & responsum est à plebe—quod libenter sibi parere vellent. *Walf. Hist. Angl. p. 195.*

When Stephen Archbishop of Canterbury, in the Year 1213. had found the Charter of Henry the First, by which (k) 'he granted to them the Law of King Edward, with those Emendations which his Father, by the Counsel of the Barons, did ratify; he told the Nobles this was the Charter by which, if they pleas'd, they might reduce their long lost Liberties into their former state. The Charter being read, (l) they much rejoyc'd, and swore in the presence of the Archbishop, that when they could spy out a fit time for those Liberties, if need requir'd, they would spend their Blood: the Archbishop on the other side, promis'd to help them to the utmost of his Power; and so, having made a League among themselves, they dissolv'd the Assembly.

Instances in H. I.

When King John still neglected to observe these Laws, 'the Nobles came unto him, (m) requiring him to confirm the Liberties and Laws of King Edward, and other Liberties granted to him, the Kingdom, and the Church of England, they being *leges Antiquæ, & Regni consuetudines*, (n) the antient Laws and Customs of the Kingdom, contain'd partly in the Charter of Henry I. and partly gather'd out of the old Laws of K. Edward; threatening that if he would not instantly grant and confirm them under his Seal, they would compel him so to do, by seizing on his Castles, Lands, and Possessions, till he gave them competent satisfaction in that Matter. Then the Archbishop shew'd the King the Contents of that Charter; and upon the King's Answer, That (o) 'he would never grant such Liberties by which he himself was made a Servant, and that the Barons might as well ask the Kingdom; they betake themselves to War, and the Barons having got the City of London on their side, (p) 'they write Letters to all the Earls, Barons, and Knights who adher'd to the King, exhorting them, with Threats, that as they lov'd the Indemnity of all their Goods and Possessions, deserting the perjur'd King, they would adhere to them faithfully, and stand immoveably with them, fighting for the Liberties and Peace of the Kingdom.

In K. John.

Whereupon the King, finding that he was not able to resist the Strength of the Barons, without difficulty grants the Laws and Liberties they demanded, and confirm'd them by his Charter. And thus it was, as Henry of Knyghton saith, That (q) in his time were procur'd the Articles of Magna Charta to the common good of the Realm. And when the King, by the instigation of some Sons of Belial, was again perswaded to fly from his Oath and Promise, the Barons spake thus one to another, (r) 'What shall we do with this wicked King? if we let him thus alone, he will destroy us and our People; it is expedient therefore, that he should be expel'd from the Throne, we will not have him any longer to reign over us. And thereupon they send presently to Lewis the Son of the French King to come to their assistance, promising him the City of London, and their Allegiance to him. And tho the Pope sent his Bull, by which he made void this Charter of the Liberties of the Kingdom of England, and writ a threatening Letter to the Barons of England upon that Affair; notwithstanding all his Threats, *noluerunt desistere ab inceptis*, (s) the Barons would not desist from their Undertakings; but rising up still against him, they vehemently annoy'd him, saying, concerning the Pope, that of the Prophet, *Wo*

(k) Per quam, si volueritis, libertates diu amissas poteritis ad statum pristinum revocare. M. Paris p. 167.

(l) Archiepiscopus vero promisit eis fidelissimum auxilium suum pro posse suo; & sic confœderatione facta inter eos, colloquium solutum est. M. Paris ibid.

(m) Petierunt quasdam libertates, & leges R. Edvardi, cum aliis libertatibus sibi, & Regno Angliæ, & Ecclesiæ Anglicanæ concessis, confirmari. M. Paris, p. 176.

(n) Capitula libertatum, & legum quæ ibi magnates confirmari quærebant, partim in Charta R. Henrici superius scripta sunt, partimque ex legibus R. Edvardi antiquitus excerpta—affirmantes quod, nisi Rex illas incontinenter concederet, & sigilli munimine confirmaret, ipsi per captionem castrorum suorum, terrarum, & possessionum, ipsum Regem compellerent, donec super præmissis satisfaceret competentem. M. Paris, p. 176.

(o) Quod nunquam tales libertates concederet unde ipse efficeretur servus, & quare cum istis iniquis exactionibus Barones non postulant Regnum. Ibid.

(p) Miserunt literas ad Comites, Barones, & milites illos qui adhuc per Angliam Regi, licet fide, adherere videbantur, exhortantes eos, cum comminatione, ut, sicut omnium rerum suarum & possessionum indemnitate diligebant, Regem perjurum deserentes, & sibi fideliter adherentes, simul cum eis pro libertatibus, & pace Regni immobiles starent, & efficaciter decertarent. Matth. Paris, p. 177.

(q) In ejus tempore fuerunt provisivi Articuli M. Chartæ ad communem profectum Regni. P. 2424.

(r) Quid faciemus de isto Rege iniquo? si sic dimiserimus illum, delebit nos, & populum nostrum; expedit igitur ut deleatur à folio Regni sui, nolumus enim de cætero eum regnare supra nos. Henr. de Knyght. de Event. Angl. p. 2423.

(s) M. Paris, p. 186.

to him that justifies the Wicked! And when the Pope proceeded to excommunicate the Barons by name, and in particular, (t) neither would the Barons observe, nor the Prelats publish the Excommunication. And what the Judgment of the generality of this Nation was of the whole War, we may learn, not only from the general Engagement both of the Laity and Clergy in it, but also from our own Historians; for they inform us, That our (u) Nobles 'were forc'd to make this War out of a 'double necessity, because he would not permit the Laws of St. Edward to be kept, 'as formerly they were wont to be, but did all things by his own Will; nor would 'observe the Form of the Law, but disinherited his Nobles without the Judgment 'of their Peers.

To this effect I find, according to the custom of those Times, a long Rhyme in the Chronicle of *Mailros*, deploring the Infelicity of that Affair, 'That the Body should '(x) attempt to rule the Head, and the People to be above their King; but adding, 'That there was a great and manifold necessity that it should be so, seeing the 'King perverted all the good Customs of the Kingdom, neither rightly managing 'Laws, Rights, or Subjects, but making that to be Justice which was agreeable to 'his own Will: which moved them to swear they would not suffer this Tyranny of 'the King, and to require the Deposition of him, if he would not consent to the 'Reformation of the Law, and to resign the Homage they had made, till he would 'give them caution to preserve the Peace. And the same *Annals* say, the Barons only fought *pro legibus pristinis restaurandis*, for restoration of their antient Laws. And when the Earl of *Pembroke* made his Oration to the assembled States, in behalf of *Henry* the Third his Son, he begins it thus, * *Albeit the Father of this Prince, for his evil Demeanors, bath worthily undergone our Persecution—we ought of Duty and Conscience to obey his Son.*

In Hen. III.

When *Henry* the Third made (y) 'void the Charters of Liberties, and of the 'Forest, pretending they were granted whilst he was in duress, and had not the 'power of his Body, or of his Seal, the People presently begin to murmur; and 'the Barons siding with *Richard* Earl of *Cornwal*, the King's Brother, with 'Threats request him to do Right to his Brother, sharply denouncing to him, that 'he should without delay restore the Charters to him sealed which he had cancel'd 'at *Oxford*; and if he did not, they would compel him by the Sword to make him 'competent satisfaction in these Matters.

A. D. 1233. the King invites over the *Poitouvins*, and other Strangers, who, with the Bishop of *Winton*, oppress the Nobles with all their Power, and cause great Discord and Complaints: (z) 'For Judgments were committed, saith *Matth. Paris*, to the Unjust; the Laws to them who were Outlaw'd; Peace to those who 'were given to Discord, and Justice to the Injurious. These things so exasperate the Nobility, that they combine for Defence of the Publick; and by *Richard* his

(t) Pag. 192.

(u) Insurrexerunt in eum Magnates duplici necessitate coacti, eo quod noluit permittere leges Sancti Edwardi teneri, sed omnia fecit in suo velle, nec voluit legis formam observare. *Henr. de Knyghton*, p. 2418.

(x) Ordinem præposterum Anglia sancivit,
Mirum dictu dicitur, tale quis audivit?
Nam præesse capiti corpus concupivit;
Regem suum regere populus quæsit:
Causa tamen multiplex illud exigebat,
Nam Rex mores optimos Regni pervertebat;
Jura, leges, subditos recte non regebat,
Quicquid erat placitum summum jus credebat,
Proprios Indigenas nimis deprimebat,
Barbaros Rutarios illis præponebat,
Hæredes legitimos obsides perdebat,
Quorum Adventitius terras possidebat;
Regis ad colloquium Milites citati
Cautè sibi præcavent, veniunt armati,
Jurant unanimiter jam se nolle pati,
Amplius Tyrannidem regis tam ingrati.
Die primo veniunt juri parituri:
Rex venire distulit nolens stare juri.

Diem ponit alterum temporis futuri:
Nec venit, sed veniunt ipsi coacturi.
Regis ergo postulant depositionem,
Legis nisi faciat emendationem;
Plenam & exhibeat certam cautionem
Pacis ad perpetuam conservationem.
Humagium quod fecerant reconfignaverunt,
Et Barones Militum causam susceperunt;
Leges tandem pristinas Regni sitientes,
Sed in Regem mittere manus non volentes.
Vide Reliqua, p. 188.

* Speed. p. 575.

(y) In eodem Concilio fecit Rex cancellare, & cassare omnes Chartas in provinciis omnibus Angliæ de libertatibus Forestæ, hanc occasionem præcedens quod Chartæ illæ concessæ fuerant, & libertates scriptæ & signatæ, dum ipse erat in custodia; nec sui corporis, aut sigilli aliquam habuit potestatem. *M. Paris*, p. 232. Sin autem, ipsi illum gladiis discurrentibus compellerent ut sibi super his satisfaceret competenter. *Ibid.* p. 233.

(z) Judicia committuntur injustis, leges ex legibus, pax discordantibus, justitia injuriis. p. 263.

Brother,

Brother, and the Earl Marshal, (a) 'humbly request of the King, that he would speedily correct these Excesses which tended to the subversion of his Crown and Kingdom, to the oppression of his natural People, and of their Laws and Liberties; and that if he would not reform them, they would withdraw themselves from his Counsel.

Whereunto the Bishop of *Winchester* replies, 'That it was lawful for the King to call what Strangers he listed about him for defence of his Crown and Kingdom, thereby to compel his proud and rebellious Subjects to their Obedience. With which Answer they were so incensed, that (b) they promis'd each other in this Cause, which concern'd them all, they would spend their Lives.

Then the King summons them to a Parliament at *Oxford*, to which they would not come, and after this to another at *Westminster*; they sending him this Message, that he should suddenly remove *Peter* Bishop of *Winton*, and his *Poictovins*; and that if he would not do this, (c) 'they all, by the Common Counsel of the whole Kingdom, would expel him with his evil Counsellors out of the Kingdom, and consult about the Creation of a new King.

A. D. 1234. A Parliament is assembled at *Westminster*, in which indeed the Bishop of *Chester* excommunicates all them who were designing (d) *alium Regem creare, to create another King*; yet doth the Archbishop Elect, and his Suffragans roundly declare against the cruel and dangerous Practices of *Peter* Bishop of *Winton*, and *Peter de Rivalis*. First, Because they suggested, (e) that the English were Traitors, and alienated the King's heart from the Marshal, who was the best Man in the Land. So that in their judgment, they that fought, and were then in Arms for their Laws and Liberties, were so far from being Traitors, that they were the best Men of the Nation. Secondly, That (f) 'there was cause to fear the Ruin both of King and Kingdom, since they had got such an Ascendent over him, that he seem'd rather to be under their Power, than they under his. Which also seems to have been the case betwixt King *James* and his Jesuits. Thirdly, 'That (g) they confounded and perverted the Law of the Land sworn to, and confirm'd, and strengthened by Excommunication, and with that all Justice; by reason of which, and many other grievances, they humbly besought him to govern his People, according to the example of other Nations, by the sworn Natives of his Kingdom; (h) declaring that if he did not correct these miscarriages in a little time, they would proceed by Ecclesiastical Censure both against his Counsellors and himself.

Edmund Archbishop Elect of *Canterbury*, being soon after consecrated, comes to the King with his Bishops and Prelates, relates again the same grievances, (i) 'declaring to him, that if he would not correct, and pacifically compose these things with his Liege People, he with his Prelates, would denounce the Sentence of Excommunication against him and all the Enemies of this Concord. Upon which the King is at last prevail'd with to remand the Bishop of *Winton* to his Cure, to banish *Peter de Rivalis* from the Court, and the *Poictovins* from the Kingdom.

One thing more is observable in this matter, that as the War of the Marshal was generally thought just, so the Marshal justifies himself to have been no Traitor, as being always ready to stand to the Judgment of his Peers, and being exil'd, and

(a) Regem humiliter rogabat, ut tales excessus corrigere festinet, per quos Coronæ suæ & Regni subversio imminabat: affirmabat insuper quod si hoc emendare diffugeret, ipse & cæteri de Regno Magnates, tandiu se ab ipsius consilio subtraherent, quamdiu alienigenarum consortio frueretur. M. Paris p. 264.

(b) Firmiter promiserunt ad invicem quod pro hac causa, quæ omnes tangebatur, usque ad divisionem corporis & animæ, viriliter decertarent. Matth. Paris ibid.

(c) Sin autem nollent, ipsi omnes de communi consilio totius Regni ipsum, cum iniquis consiliariis suis, à Regno depellerent, & de novo Rege creando contrectarent. M. Paris p. 265.

(d) M. Paris p. 271.

(e) Vocantes eos proditores, & facientes om-

nes sic vocari — qui melior est homo terræ vestræ. P. 271.

(f) Timendum est tam de vobis, quam de Regno, cum videamini magis esse in eorum potestate, quam ipsi in vestra. Ibid.

(g) Item legem terræ juratam, & confirmatam atque per excommunicationem roboratam, pariter & justitiam confundunt, & pervertunt. Ibid.

(h) Nisi infra breve tempus ista correxeritis, in vos, & in omnes alios contraditores, per censuram Ecclesiasticam procedemus. P. 272.

(i) Denuntiavit etiam ipsi expresse quod, nisi errorem dmitteret, & cum fidelibus Regni sui pacifice componeret, ipse — cum omnibus Prælatibus qui aderant, in ipsum Regem sententiam ferret excommunicationis, & in omnes alios hujus pacis contraditores. Ibid.

depriv'd of his Offices and Lands against Law; (k) for which cause, saith he, I ceased to be the King's Liege Man, and was absolv'd from my Homage not by myself, but by the King.

A. D. 1237. A Parliament is held at *London*, in which the King requests, in regard of the great expence for his Sister's Marriage, the thirtieth part of all Moveables both of the Clergy and the Laity. After great opposition made to this Demand, and the recital of many suppos'd Miscarriages, the King disavowing and protesting against his former Revocation, (l) and freely granting the inviolable observation of the Liberties under pain of Excommunication, hath yielded to him the thirtieth part of all Moveables.

In the year 1240. the Archbishops, Bishops, and many of the Nobles, assembled at *London*, grievously complain of divers Injuries, Oppressions, and Desolations which befel the Church by the evil Counsel of the King, violating his Charters and his Oaths, (m) 'after he had so often sworn that he would preserve the Ecclesiastical Rights inviolate, and himself held a Candle when the Bishops in his hearing pronounc'd the Sentence of Excommunication against all the Violaters of the Ecclesiastical Liberty, he then extinguishing his Candle with the rest.

In the year 1242. the King requests farther Supplies of his Parliament held at *Westminster* for his intended Expedition into *France*. But they resolutely deny to give him any, for that in order to the obtaining former grants of Mony, (n) 'he had promised and granted to them that all the Liberties contain'd in *Magna Charta*, should from thence be fully observ'd thro the Kingdom, and had given them a little Charter in which they were contain'd; and yet after all, he never was true to his Word, but oppress'd them still more.

In the year 1244. he desires new Supplies, which for a time they refuse, pleading that (o) the Charter of Liberties which the King had granted, and the Archbishop had upon Oath in the King's name promised to them, was not observ'd. Tho at last, upon the King's faithful Promise to keep and observe the Liberties to which he had sworn at his Coronation, and whereof he had granted his Charter, and upon the appointment of four Noble Men to be of the King's Council, who should be *conservatores libertatum*, Keepers of their Liberties, they grant him new Supplies; (p) 'the King then promising himself to observe them, and requesting that for the defence of their Liberties, all the Bishops in their Diocesses should pronounce Sentence against him, and all who violated the said Liberties in any Article of them. And thus they agreed to grant him a Supply.

In the year 1252. he holds a Parliament at *London*, and requires more Mony; and they after some consultation answer, (q) 'That tho the King had much oppressed both Church and Kingdom, they would do their utmost to satisfy his desires, provided that, as he had often promis'd, he would now at last inviolably observe the Charter of their Liberties, so often covenanted and sworn to. Other

(k) Unde homo suus non fui, sed ab ipso Homagio non per me, sed per seipsum licenter absolvebar. P. 273.

(l) Spontanea promisit voluntate libertates M. Chartæ suis fidelibus Regni sui ex tunc inviolabiliter observare, &c. Matth. Paris p. 298.

(m) Reponentes querimoniam gravissimam coram Rege, in curia sua, super variis injuriis, & oppressionibus, & quotidianis desolationibus illatis Ecclesiæ per iniquum Regis consilium, contra Chartas suas, & juramenta temere veniendo,—cum ipse Rex toties juraverat se jura Ecclesiastica illibata conservare, ipsomet audiente, & Candelam tenente, quod omnes Episcopi in violatores libertatum Ecclesiasticarum simul sententiam fulminabant; in cuius sententiæ consummatione, Rex, ut alii, suam Candelam extinxit inclinando. M. Paris p. 354.

(n) Et præterea concessit eis tunc quod omnes libertates contentæ in M. Charta ex tunc in antea plenius tenerentur per totum Regnum suum, & inde fecit eis quandam parvam Chartam quam adhuc habent, in quâ eadem continentur—& quia dominus Rex nunquam post tricesimam datam Char-

tam suam de libertatibus tenuit. Ibid. p. 394.

(o) Et quia Charta libertatum quas dominus Rex olim concesserat & pro cujus conservatione Archiepiscopus Cant. Edmundus juraverat, & fidejusserat, & certissime pro Rege promiserat, nondum existit observata. Matth. Paris p. 432.

(p) Rex tam in propria persona, tum per internuntios solennes, promisit se libertates quas juraverat in Coronatione sua, super quibus Chartam fecerat, integerrime servaturum; ad quarum etiam tuitionem rogavit ut singuli Episcopi, in Diocessibus suis sententiam ferrent in ipsum, & omnes qui contra memoratas libertates venirent in aliquo Articulo. M. Paris p. 435.

(q) Quantumcunque Ecclesiam Anglicanam, & Regnum suum Angliæ opprefferit & afflixerit, quod postulat à nobis adhuc impendimus & desiderio suo, pro posse, obsecundabimur, si, quod multoties promisit, velit Chartam toties pactam, totiesque debitam, Libertatum nobis juratarum inviolabiliter posthac observare. P. 558. Nunquam in talem mergeretur Servitutem. Ibid. p. 570.

things they demanded then, which the King would by no means agree to, swearing horribly, that whilst he liv'd *he never would be reduc'd into such Slavery*: And so the Assembly breaks up, producing nothing but the King's Wrath.

In the year 1253. was assembled a very great Parliament, in which the Archbishop, and some Bishops, are sent to induce the King to permit Holy Church to enjoy her Liberties, as he had oft promised upon Oath, and declaring, (r) that if he would correct this, and other of his miscarriages, according to the Tenor of *M. Charta*, they would incline to his Petition, how burdensome soever it might be to them. This the King promiseth to do, and desires them to assist him in it; so the Clergy grant him a Tenth, and the Knights Scutage, viz. three Marks of every Knights Fee for that Year; and (s) the King promiseth faithfully, and without cavil, to ratify *Magna Charta*, and faithfully to observe all the Articles of it, which King *John*, and he at his Coronation, and often since, had sworn to observe. And this is done in the most Solemn and Ceremonial manner that could be devised: for the King with all the great Nobility of *England*, all the Bishops and chief Prelates in their Ornaments, with burning Candles in their hands, assemble to hear the terrible sentence of Excommunication upon all the Infringers of the same; and at the lighting of those Candles, the King, having one in his hand, gives it to one of the Prelates, saying, (t) 'It becomes not me, who am no Priest, to hold this Candle; my Heart shall be a greater Testimony; and withal laid his hand on his Breast the whole time the Sentence was read, which was thus pronounc'd: In the Name of the Omnipotent God, &c. Which done, he caus'd the Charter of King *John* his Father to be read. In the end, having thrown away their Candles, they cried out, *So let them who incur this Sentence be extinct, and stink in Hell*: and the King with a loud voice said, (u) 'As God help me, I will, as a Man, a Christian, a Knight, a King Crowned and Anointed, inviolably observe all these things. But notwithstanding all this, in the very next Year the King, by the Counsels of some wicked Men, is wrought upon again to infringe this Charter, hoping for a Gift to obtain an absolution from his Oath.

In the next Year a Parliament is call'd, which yields nothing but grievous Complaints for breach of *Magna Charta*, and Promises of supply provided it may be again confirm'd, and the electing the Justiciar, the Chancellor, and Treasurer put into their hands; to which the King would not yield. But tho the King would not observe it, *M. Paris* saith, (x) It was cry'd in all Countries, and denounc'd in all Synods, Churches, and publick Resort, that *M. Charta* should be inviolably observ'd, and the sentence of Excommunication is denounc'd against all the Violaters of it.

In the Year 1256. Provision is again made *sub poena horribilis Anathematis*, under the penalty of an horrible Anathema, that the *M. Charta* of King *John* should be observ'd. P. 608.

In the Year 1257. the King requests an Aid for his Son *Edmund*, for the acquiring the Kingdom of *Sicily*: and after many excuses, (y) 'upon condition that the King would observe *M. Charta* so often promised, and bought, they tender 52000 Marks, with which the King was not satisfied.

In the Year 1258. was held the Parliament at *Oxford*, where the (z) 'Nobles en-

(r) Quod si hunc, & alios errores, secundum *M. Chartæ* de Libertatibus confectæ tenorem emendaret, ipsi, usque ad gravamen magnum, Petitionibus suis inclinarent, &c. P. 579.

(s) Rex bonâ fide, & sine aliqua cavillatione, promissit, se *Chartam Magnam*, & omnes ejus Articulos fideliter observaturum, quam Rex *Johannes* tenere juravit, & similiter qui præsens est, in susceptione Coronæ, & postea multoties. Ibid.

(t) Non decet me Candelam talem tenere, sum enim Sacerdos; Cor autem majus perhibet testimonium; & ex tunc tenuit manum expansam ad Pectus, donec tota sententia finiretur. P. 580.

(u) Dixit ipse Rex, Sic me Deus adjuvet, hæc omnia illibata observabo fideliter, sicut sum homo, sicut sum Christianus, sicut sum miles, & sicut sum Rex Coronatus & Inunctus, &c. *M. Paris*. p. 580. Idem Rex, consiliis malignorum præventus, easdem infringendo contravenire non formidavit, credens pro munere absolvi à transgressione. P. 597.

(x) Diebus autem istis acclamatum est in Comitatibus, & annunciatum est in Synodis, in Ecclesiis, & ubicunq; locorum homines convenerant, ut *M. Charta* inviolabiliter teneretur, quam R. *Johannes* concesserat, & iste Rex præsens multoties concessit; & lata est sententia solenniter in omnes ejusdem violatores. Ibid. p. 609.

(y) Et tamen conditione additâ, ut *M. Chartam*, toties promissam, emptam, & redemptam, ex tunc inviolabiliter observaret, &c. p. 637.

(z) Parlamento incipiente, solidabatur *Magnatum* propositum & consilium immutabile, exigendo constantissimè ut Dominus Rex *Chartam Libertatum Angliæ*, quam *Johannes* Rex Angliæ concessit—fideliter teneat, & conserveat—exigebant insuper sibi fieri Justiciarium, &c.—Quod Rex recognoscens, graviter juravit consiliis eorum obsecundare, & *Edvardus* filius ejus eodem est juramento adstrictus. p. 653.

ter into an unchangeable League to require that the King should faithfully observe the Charter of King John, which he had so often sworn to perform. They require also the chief Justiciar, Chancellor, and Treasurer to be ordain'd by publick Choice, and the twenty four Conservators of the Kingdom to be confirm'd, twelve by the Election of the Lords, and twelve by the King, who swears to the Confirmation of these things, and causes the Prince to take the same Oath. *Walsingham* adds, (a) that all after him did almost swear the same thing.

But notwithstanding this, the King gets an Absolution from his Oath of the Pope. Of this the Barons hearing, (b) humbly beseech him to perform the Oath publicly sworn: but the King answering them with threats, the business is deferred till the coming of Prince Edward; who coming, sides with the Barons according to his Oath, and a League is made betwixt them to apprehend the King's evil Counsellors, and their Abettors, and to endeavour to remove them from the King.

In the Year 1263. the Contest betwixt the King and the Barons is refer'd to the Mediation of the French King, who annuls the Provisions of Oxford, but (c) with this exception, that the Antient Charter of King John, granted to the Community, should in nothing be thereby impaired.

Barons Wars.

Then began the Barons Wars under Simon of Monfort, who succeeded so far in them, as to take the King and his Son Prisoners. But afterwards the Prince escaping out of Prison, fights with Simon, and overthrows him at Evesham, where he was slain.

Simon of Monfort is not call'd Rebel.

And here it is to be observ'd, that none of the Historians of those times (d) will permit this Simon to be call'd a Rebel, or a Traitor; but they still represent him as a most devout Servant of God and the Church, and a most faithful Protector, Shield, and Defender of the Kingdom of England, and even a Martyr for the Liberties of Church and State.

M. Par. Cont. p. 677.

After the end of these Wars, in the Year 1269. the King calls a Parliament to be held at Marlborough, where the Statutes call'd the Statutes of Marlborough were enacted; in the Fifth Chapter of which it is decreed, that (e) the Great Charter, and the Charter de Foresta shall be observ'd in all their Articles, both concerning the King and his Subjects. And here, saith the Lord Coke, it is to be observ'd, that after this Parliament neither *M. Charta*, nor *Charta de Foresta* was ever attempted to be impugned, or questioned, whereupon Peace and Tranquillity have ever since ensued.

Inst. l. 2. p. 102.

In Ed. I.

Confirm. Chart. c. 1.

Edward the First, in the twenty fifth Year of his Reign, confirms the said Charters of the Liberties of England, and of the Forest, and declares 'they are to be holden for Common Law, requires that they should be held in every point, that they should be sent under the Great Seal to all his Justices, as well of the Forest as others, proclaim'd by the Sheriff of the County; and that all Justices, Sheriffs, Mayors, and other Ministers, which under the King had the Laws to guide them, should allow the said Charters in all their Points, which in any Plea shall come before them in Judgment; and that the said Charters should be sent to all the Cathedrals within the Realm, and should be read twice a Year before the People; and that the Archbishops, and Bishops, should denounce the Sentence of Excommunication against all them who in Word or Deed did act against the said Charters: and these Sentences shall be pronounc'd and publish'd twice in the Year by the said Prelates.

Chap. 3.

Chap. 4.

And because, in the sixth Chapter of the said Act, there was added this Clause, *Saves les auncient aides & prises, dues & accoustomes*, which gave some Colour for the King's Officers to make an Evasion, the Lords of Parliament, met in the twenty eighth Year of his Reign, do importune the King again to confirm the said Charters, which he promis'd to do; but when it came to be set down in form of an Act,

(a) Rex coactus est corporale prestare Sacramentum, cum omnibus ferè post jurantibus illud idem. *Hyp. Neustr.* p. 467.

(b) Rogabant humiliter ut communiter præstitum juramentum inviolabiliter observare vellet. *Contin. M. Par.* p. 567.

(c) Hoc excepto, quod Antiquæ Chartæ R. Johannis Angliæ Universitati concessa, per illam sententiam in nullo intendebat penitus derogare. p. 568.

(d) Sciendum, quod nemo sani capitis debet censere, neq; appellare Simonem nomine Proditoris; non enim fuit Proditor, sed Dei Ecclesiæ in Anglia devotissimus Cultor, & fidelissimus Protector, regni Anglorum Scutum & Defensor. *Chron. de Mailr.* p. 228.

(e) Magna Charta in singulis suis Articulis teneatur, tam in his quæ ad Regem pertinent, quam quæ ad alios: Similiter Charta de Foresta.

the King would have added *a Saving of the Right of his Crown*, which the Lords did mainly inveigh against, and pressed the King with his promise to confirm them as absolutely as his Father *Henry III.* had done; which in the end he yielded to, as appears by the Act call'd *Articuli super Chartas*, where these Charters are again confirm'd; and 'tis provided that they shall be read 'four times every Year before the People in every County after the Feast of *St. Michael*, and after the Feast of the Nativity of our Saviour, after *Easter*, and after the Nativity of *St. John the Baptist*. Chap. i.

When the King had ended his Wars in *Scotland*, he refus'd to stand to the Confirmation which he had made to his Barons, of such Laws and Liberties as he before had granted, pretending that they had forc'd his Consent; (f) and he obtain'd of the Pope an Absolution from the Oath which he unwillingly had taken to observe them. But when great Murmuring and Discontent follow'd hereupon, and for his levying Taxes without Consent of Parliament, in his 34th Year he makes the Statute *de Tallagio non concedendo*, for the quieting of the Commons, and for a perpetual Law for ever after; declaring, 'That no Aid or Taxes shall from thenceforth be levied without their Consent, and making a general Restitution to the Subjects of all their Laws, Liberties, and free Customs, as freely and wholly as at any time before in the better and fuller manner they us'd to have the same; and so ended all the Disputes touching these Charters.

Walsingham saith, Pag. 71, 72. That 'the Grievances which the Archbishops, Bishops, Abbats, Priors, Earls and Barons, with the whole Commonalty, remonstrated to the King, were these, viz. Grievances complain'd of.

'First, That they were not dealt with according to the Laws and Customs of the Land, according to which their Ancestors us'd to be govern'd.

'Secondly, That the Articles of *Magna Charta* were neglected, to the great damage of the whole Community.

'Thirdly, That the Assize and Charter of the Forest was not observ'd. And then he adds, 'That the Nobles would consent to no other form of Peace with the King, than that which he establish'd in the Statute *de Tallagio non concedendo*, and which I have now set down.

There is one thing more very observable in the Reign of that King, that when the Pope had summon'd him before him to answer touching his Right to the Kingdom of *Scotland*, a Parliament then held at *Lincoln* answer the Pope thus, That (g) 'their King should not answer judicially before the Pope, nor undergo his Judgment for his Rights of the Kingdom of *Scotland*, or any other Temporal Rights, because this manifestly tended to the disinherison of the said Crown, and the Royal Dignity, and the subversion of the said Kingdom, and of the Liberties, Customs, and Paternal Laws, to the defence of which they were by their Oath oblig'd, and with their whole Power would defend; and were the King never so willing, they, as they ought not, so they would not permit the King to attempt the Premises. When King *Richard* the Second ask'd of Sir *Robert Tresilian*, and his other Lawyers, Whether he might not disannul the Decrees of the last Parliament? and they had answer'd, that he might, BECAUSE HE WAS ABOVE THE LAWS; as one of them confess'd, he deserv'd Death for that Answer; so all that could be caught soon after found it.

Farthermore let it be observ'd, that the Nobility of *England*, as the Lord *Coke* Instit. 1.2. observes, have ever had the Laws of *England* in great estimation and reverence, and P. 97. would never suffer them to be chang'd. This made King *Henry* the First, saith he, write

(f) Obtinuit Rex à Domino Papa absolutionem à juramento, quod invitus præstiterat super observantia Libertatum alias à Comitibus & Baronibus exactarum. *Walsingh.* p. 92.

(g) Papa R. Edvardum primum in judicium vocante, respondet Parliamentum *Lincolniæ* habitum, quod præfatus Dominus noster Rex, super juribus Regni *Scotiæ*, aut aliis suis temporalibus, nullatenus respondeat judicialiter coram vobis, nec judicium subeat quoquomodo—cùm præmissa caderent manifestè in exheredationem juris Coronæ Regni *Angliæ*, & R. Dignitatis, ac subversionem Status

ejusdem Regni notoriam, necnon in præjudicium Libertatis, Consuetudinum, & Legum paternarum; ad quarum observationem & defensionem, ex debito præstiti juramenti, adstringimur, & quæ manu tenebimus toto posse, & totis viribus, cum Dei auxilio, defendemus; nec etiam permittimus, aut aliquammodo permittimus, sicut nec possumus nec debemus, præmissa tam insolita, indebita, præjudicialia, & alias inaudita, prælibatum dominum nostrum Regem, etiam si vellet, facere, seu modo quolibet attemptare. *Walsingh. Hist.* p. 85. *Hypod. Neustr.* p. 496. *Speed,* p. 731.

to Pope *Paschal* thus: (b) 'Let your Holiness know, that by the help of God, whilst I live, the Dignities and Customs of our Kingdom of *England* shall not be diminish'd; and if I, which God forbid, should so far deject my self, my Nobles, and all the People of *England* would never suffer them to be alter'd.

Nolumus
leges Ang-
liæ muta-
re, when
said.

When the Bishops, in the 20th Year of *Henry* the Third, would have 'those Children who were born before Matrimony, legitimate as to hereditary Succession, as well as those who were born after Matrimony: (i) All the Earls and Barons answer with one Voice, 'We will not have the Laws of *England*, which have hitherto been us'd and approv'd, to be chang'd.

In the Letters which all the Nobility of *England*, by Assent of the whole Commonalty assembled in Parliament at *Lincoln*, wrote to Pope *Boniface*, we find these words: (k) 'By virtue of our Oath we are bound to the Observation and Defence of the Liberties, Customs, and Paternal Laws, which by the help of God we will defend with our whole Power; nor do we, nor will we permit our Lord the King, tho he were willing, to attempt things so unusual, undue, and prejudicial to the Royal Dignity. And this was sealed by 104 Earls and Barons, in the Name of all the Commonalty of *England*.

25 E. 1.
c. 3.
42 E. 3.
c. 1.
Speed,
p. 583.

What they affirm touching their Oaths to defend their Laws, is an unquestionable Truth; for besides what hath been noted of this kind already, in the 25th Year of this King it was establish'd by Act of Parliament, that if any Statute were made contrary to *Magna Charta*, or *Charta de Forestis*, it should be holden for none; and the Nobles and great Officers were sworn to the observation of them: Yea, by the Royal Command of *Henry* the Third, Oaths were taken to tie all Men to the strict observation of them.

S E C T. IV.

That we find throughout the History of our Kings, that their Election, or else their Compact with the People, hath generally been conceiv'd a thing proper to strengthen their Title to the Crown, or at least to satisfy their People.

4ly, **I**T may be farther worthy of our consideration, that we find throughout the History of our Kings, that their Election, or else their Compact with the People, hath generally been look'd on as a thing proper to strengthen their Title to the Crown, or at least to satisfy the People. For instance,

First, Of the Conqueror, *S. Dunelmensis*, p. 195. and *Hoveden*, f. 258. inform us, that *Fædus pepigit*, he made a Covenant with the People. *Gulielmus Gemiticensis* and *Walsingham* say, that (l) he was chosen King by all the Nobles of *England* and *Normandy*.

Daniel,
p. 52.
Pol. Virg.
Hist. l. 10.
p. 164.

Secondly, *William* the Second held the Possession of the Crown of *England* by the Will of the Kingdom, the Succession in Right of Primogeniture being none of his. The Historians say, (m) that the Nobles met in Council at *Westminster*, and after long consultation made him King; that by the willing Minds of all he was accepted for their King: and the King himself declares, *quod ipsum in Regem creaverant*, that they had created him King.

Thirdly, *Henry* the First was invested with the Crown by the Act of the Kingdom. The Historians tell us, that 'a Council of the whole Community rejected *Robert*,

(b) Notum habeat Sanctitas vestra, quod, me vivente, auxiliante Deo, Dignitates & Usus Regni nostri Angliæ non imminuentur; & si ego, quod absit, in tanta dejectione me ponerem, Optimates mei, & totus Angliæ populus, id nullo modo pateretur. *Charta Henr. I.*

(i) Et omnes Comites & Barones unâ voce responderunt, quod nolunt Leges Angliæ mutare quæ hæcque usitata & approbata sunt. *Stat. Mert. c. 9. Bracton l. 5. c. 19. F. 417.*

(k) Ad Observationem & Defensionem Libertatum, Consuetudinum, & Legum paternarum, ex debito præstiti Sacramenti adstringimur, quæ manu tenebimus toto posse, totisque viribus, cum Dei

auxilio defendemus, nec etiam permittimus, nec aliquatenus permittemus, sicut nec possumus, nec debemus, præmissa tam insolita, indebita, præjudicialia, & aliàs inaudita, Dominum nostrum Regem, etiamsi vellet, facere, seu quomodolibet attemptare. *Rot. Parl. 28 Ed. 1. apud Lincoln.*

(l) Ab omnibus tam Normannorum, quam Anglorum Proceribus Rex est electus. *Gemit. de Ducibus Norm. l. 6. c. 37. Walsing. Hypod. Neust. p. 436.*

(m) Volentibus omnium provincialium animis in Regem acceptus. *M. Par. p. 10. Chron. Joh. Brompt. p. 983, 984.*

'the

the eldest Son of the Conqueror, and would not have him for their King; (n) but with unanimous Consent they advanc'd his Brother Henry to the Kingdom, who was by all elected and consecrated King at *Westminster*, after the death of *William Rufus*, as being the first-born of the Conqueror after he was King of *England*. *William of Malmesbury* saith, 'he was consecrated within four days after his Brother's death, (o) lest the Rumour of Robert's coming to *England* should move the Nobles to repent of their Election. And in his Charters the King himself writes thus; (p) 'Know you that I was crown'd King of *England* by the Common Council of the Barons of the Kingdom. And 'tis observable, that his elder Brother Robert being absent at the Holy Wars, they chose Henry King, because they were afraid to be long without Government.

Fourthly, *Florence of Worcester*, *William of Malmesbury*, *R. Hoveden*, and *R. Hagulstaden*, do expressly say, that Stephen (q) was chosen King by the Primats of the Kingdom, with the favour of the Clergy and Laity; and that he took upon him the Kingdom (r) with their general Consent: and his own Charters say the same thing, as they had reason to do, he having no Title at all, but as one of the Blood, by mere Election advanc'd to the Crown. Dan. p. 69.

Fifthly, *Radulphus de Diceto* saith of Henry the Second, That (s) he was elected by all, and anointed by Theobald Archbishop of Canterbury.

Sixthly, And of Richard the First he saith, 'That being to be promoted to be King by Right of Succession, (t) after the solemn and due Election both of the Clergy and Laity, he took a threefold Oath. *Hoveden* adds, fol. 374. that he was consecrated, and crown'd King of *England*, consilio & assensu, by the Counsel and Assent of the Archbishops, Bishops, Counts and Barons.

Seventhly, King John receiv'd the Crown by way of Election; as being chosen by the States, saith *Daniel*, p. 127. *Matthew Paris* saith, (u) 'That all consented to the Speech of the Archbishop, that none ought to succeed another in the Kingdom, unless he were elected by the Community; and thereupon they elected the Count, and took him for their King.

Eighthly, The History of *Croyland* saith, 'That after the death of King John, Henry his first-born was (x) elected King.

Ninthly, 'The Succession of Edward the Second, saith *Walsingham*, (y) was not so much by Right of Inheritance, as by the unanimous Consent of the Peers and great Men.

Tenthly, Edward the Third was elected with the universal Consent of the People upon his Father's Resignation: (z) The Parliament then met at London, declar'd by common consent, That Edward the Second was unworthy of the Crown, and for many Causes to be depos'd, and that his first-born Son Edward should unanimously be chosen King. Then the Election is publicly declar'd in *Westminster-hall*, some of both Houses are sent to Edward the Second, qui nunciarent Electionem filii sui, who should acquaint him with the Election of his Son, and require him to resign the Crown. Electioni consensit populus universus, all the People consented to the Election; so did all the Prelates, and the Archbishop, who made an Oration on those words, Vox Populi vox Dei, and exhorted all to pray for the King Elect.

(n) Unanimi assensu suo ipsum refutaverunt, & pro Rege omnino recusaverunt, & Henricum fratrem in Regem erexerunt. Knyght. de Event. Angl. p. 2374. In Regem electus est frater ejus Henricus, & consecratus est Rex Angl. M. West. Hist. p. 235. In Regem electus est, aliquantis tamen controversiis inter Proceres excitatis, & sopitis. W. Malmesb. l. 5. F. 88. J. Brompt. Chron. p. 997. Walsing. Hypod. Neust. p. 446. Rich. Hagulst. p. 310.

(o) Ne mentes procerum electionis quassarentur poenitudine. F. 88.

(p) Sciatis me Dei misericordiam, & communi consilio Baronum Regni Angliæ, ejusdem Regni Regem esse coronatum. M. Paris. p. 38.

(q) A primoribus Regni, cum favore Cleri & Populi, electus. R. Hagulst. p. 312. Flor. Wigor. p. 665. Hoved. F. 215. Malms. F. 101. B.

(r) Assensu Populi & Cleri in Regem electus.

Malmesb. Hist. Nov. l. 1. f. 101. B. R. Hagulst. p. 314.

(s) Ab omnibus electus. P. 529.

(t) Post tum Cleri & Populi solennem & debitam Electionem. P. 647.

(u) Archiepiscopus dixit, quod nullus prævia ratione alii succedere habet Regnum, nisi ab universitate Regni unanimiter, Spiritus Sancti invocata gratia, electus, & secundum morum eminentiam præelectus; omnes hoc acceptabant, ipsumque Comitum in Regem eligentes & assumentes, exclamant, dicentes, Vivat Rex. Mat. Paris. p. 138.

(x) In Regem eligitur. p. 474.

(y) Non tam jure hæreditario quam unanimi assensu Procerum & Magnatum. Edward Franc. An. 1602. P. 95.

(z) Walsing. Hist. Angl. p. 126. Hypod. Neust. p. 508, 509. Knyghton p. 2550.

Knyght.
p. 2630.

Eleventhly, Richard the Second succeeded Edward by Right of Succession, *ac etiam voto communi singulorum, and by the common Suffrage of all.*

Twelfthly, Henry the Fourth, Fifth and Sixth, were only Kings by Act of Parliament.

Trussel,
179.

Thirteenthly, Edward the Fourth at his entrance on the Government, makes a solemn Declaration of his Right to the Crown of England, challenging it to belong unto him by a double Right, the first *as Son and Heir to Richard Duke of York, the rightful Heir of the same*; the second *as elected by the Authority of the Parliament, upon K. Henry's forfeit of it.*

P. 913,
914.

Fourteenthly, The Parliament-Roll publish'd in Speed's Chronicle often saith, That they had chosen Richard the Third for their King, and that the Crown belong'd to him as well by Election as Succession.

Bacon's
Hen. VII.
p. 12.

Fifteenthly, And Henry the Seventh, to all his other Titles by Marriage, Conquest, and from the House of Lancaster, adds that of the Authority of Parliament.

S E C T. V.

That we find mention in History of divers Acts of Parliament, or of the Nobles of the Kingdom, continuing the Name and Honour of a King to him, who, by their own confession, had not the immediate Title to the Kingdom, and only proclaiming him, who had the Right by Proximity of Blood, Heir apparent to the Crown.

Contest be-
twixt Ro-
bert and
W. Rufus.

Moreover we read of divers Acts of Parliament, or of the Nobles of the Kingdom, continuing the Name and Honour of a King to him, who, by their own confession, had not the just Title, and only proclaiming him, who had the Right by Proximity of Blood, Heir apparent to the Crown: For instance,

The (a) Contest betwixt Robert the eldest Son of the Conqueror, and William Rufus his younger Brother, ended thus: 'That if Robert died without a lawful Son, King William should be his Heir; and if King William died without Issue, Robert should be his Heir; and this was sworn to by twelve Barons of each side.

In the Contest between the same Robert and his younger Brother Henry, (b) the Princes, say some of our Historians; (c) the wise Men of our Kingdom, say others, made a (d) mutual and general League of Concord, by their pious and wise Counsel: That Henry the First being invested with the Crown by Act of the Kingdom, should enjoy the same during Life; and that by reason of the manifest Right which Robert had to the Kingdom, Henry should pay him 3000 Marks yearly; and that the longest liver should be Heir to the other, if he died without a Son. By which Acts, if William Rufus or Henry had Sons, they were to reign, tho the manifest Right was in Robert and his Heirs.

And here it is observable, that tho the (e) greatest part of the Nobles did upon some dislike to Rufus, to whom they had sworn Allegiance, favour his Brother Robert, desiring to advance him to the Kingdom, and to destroy William, or deliver him a-

(a) Ad hæc etiam inter se constituerunt, ut si comes absq; filio legali in Matrimonio genito moreretur, hæres ejus esset Rex; modoq; per omnia simili, si Regi contigisset mori, hæres illius fieret Comes, hanc conventionem 12 ex parte Regis, & 12 ex parte Comitum Barones Juramento firmaverunt. Flor. Wigor. p. 644.

(b) Principes. M. Paris. p. 40. Hen. Hunting. F. 216. B. Joh. Bromp. p. 998.

(c) Sapientiores utriusque partis. Dunelm. p. 226. Flor. Wigorn. p. 650. R. Hoveden. F. 268. B. Daniel p. 61.

(d) Amici utriusque foedus inter eos statuerunt sic, quod Rex propter manifestum jus quod habuit ad Regnum possidendum, Roberto singulis Annis

tria millia Marcarum Argenti daret ab Anglia; & quis eorum diutius viveret, Hæres esset alterius, si absque filio moreretur. M. Westm. p. 236. Hen. Hunting. Hist. l. 7. F. 216. B. M. Par. p. 40.

(e) Maxima pars Nobiliorum Normannorum favebat Roberto, cupiens hunc sibi asciscere in Regem, fratremque aut fratri tradere vivum, aut Regno privare peremptum, hujus execrandæ rei principes extiterè Odo, &c. hoc execrabile factum clam tractaverunt in quadagesima. Florent. p. 642. Dunelm. A. D. 1088. Hoved. Par. 1. F. 264. Radulph. de Diceto, p. 489. Proditores vocat H. Hunting. Hist. l. 7. F. 213. Perfidos, W. Malmsb. Hist. l. 4. F. 68. Conjuracionis & perfidia Socios. Florent. p. 643. Perjurii reos, M. Paris, p. 10.

live to his Brother; yet do all our Historians declare, that they who sided with William, were faithful to their earthly Lord, and the other Party were Traitorous, Perfidious, and Perjur'd Persons, and that the thing it self was an execrable Fact.

And in like manner they who stood for Henry against the same Robert, who had manifest Right, are said by Will. of Malmesbury, L. 5. de H. I. Fol. 88. *justas partes fovere, to be of the right side*; and they who fought against him to be *fidei Regi juratæ transfugæ*, violaters of their Oath. And yet this Henry was advanced to the Throne, not because he had Right during the Life of his elder Brother; but because Robert being gone to the Wars at Jerusalem, (f) they knew not what was become of him, and were afraid to be long without Government.

But to proceed to other Instances of this nature from History. In the Contest between King Stephen and Henry Duke of Normandy, the Son of the Empress Maud, and the right Heir of the Crown, Theobald Archbishop of Canterbury, and Henry Bishop of Winton, made Peace betwixt them upon these Conditions; (g) That King Stephen from that time should entirely enjoy the Kingdom as lawful Prince, with the Glory and Honour of it, and Henry should succeed him as lawful Heir. This Peace was thus made (h) by the Counsel of the wise Men, and the Intervention of the Nobles and Friends of both Parties, and was declar'd to be honest and profitable: And saith M. Paris, it was concluded in a publick Convention of the Bishops and Nobles of the Kingdom.

Fourthly, Thus was it also in the Case of Richard Duke of York, and Henry the Sixth: for tho Richard was the right Heir to the Kingdom, yet the Parliament held A. D. 1460. decreed (i) that Henry the Sixth should reign, and be King during his Life; and that the Remainder should rest in Richard Duke of York, and the lawful Heirs of his Body in general Tail.

Contest between K. Stephen and Hen. I.

Speed, p. 846.

SECT. VI.

The Inferences from the Resolutions of the best Casuists, to prove that the Oath of Allegiance, and of the Coronation, are reciprocal; and consequently that the Obligation of the Oath of Allegiance doth cease, when the Original Compact is fundamentally violated.

NOW the Inferences which naturally flow from this Historical Account of the Kings of England, and their Government, are these:

First, That the Kings of England were Kings by virtue of an Original Compact, made between them and the People. This is apparent by the Contract made by the Conqueror with the Nobility and Commonalty of England; and the so frequent repetition of that, or a like Contract by the following Princes of this Realm, by the Oaths that they took at their Coronation, to preserve to the People their ancient Rights and Liberties, their original Customs and Laws; and by the continual Claim the People made to the Laws of their Country, the Laws of King Edward, and the Magna Charta as their Right.

Kings of England originally by Compact prov'd.

Accordingly the Lord Chancellor Fortescue, c. 9. p. 13. having declar'd that our Kings are Political Kings, who receiv'd their Power from the People; he adds, c. 14. p. 34. That, *non alio pacto*, by no other Contract did ever any Nation willingly incorporate it self into a Kingdom, but that they by that means might more safely than before enjoy themselves and their Goods, of which Intent that Nation

(f) Quia ignorabant quid actum esset de Roberto fratre primogenito, & timuerunt diu sine Regimine vacillare. M. Paris. p. 38.

(g) Rich. Hagulst. p. 330. H. Hunting. l. 8. F. 228. Joh. Brompt. Chron. p. 1037. Gervaf. Chron. p. 1375. Chron. de Mailros, p. 167.

(h) R. Stephanus Ducem Hen. cognovit in conventu Episcoporum, & aliorum Regni Optimatum, quod jus Hereditarium in Regnum Angliæ habebat, & Dux benigne concessit, ut R. Stephanus tota vita sua, si vellet, Regnum pacifice possideret. M. Paris

p. 61. M. Westm. p. 246.

(i) Quod Dux & filii sui, Edvardus Comes Marchiæ, & Edmundus Comes Rutlandiæ, qui ambo discretionis annos attigerant, jurarent ipsi Regi fidelitatem, quodque ipsum recognoscerent eorum Regem quamdiu ageret in humanis, id enim Parliamentum ipsum decreverat, addendo, de ipsius Regis consensu, quod quamprimum Rex ipse in fata decesserit, licebit dicto Duci suisque Hæredibus coronam Angliæ vendicare, & possidere. Hist. Coryl. Ed. Oxon. p. 550.

‘ would be defrauded, if having thus submitted to the Government of a King, he
‘ might spoil them of their Goods, which before it was not lawful for any Man to
‘ do.

Stat. Mer-
ton. c. 9.
25 H. 8.
c. 21.
Secondly, That this Compact was, That the King should govern them according to
the Tenor of such Antient Laws and Original Customs as were receiv’d among
them; according to the good, approv’d, and antient Laws of the Kingdom, says *M.*
Paris; the Liberties in which the Nobles confided, saith *M. of Westminster*; the Laws of
their Country, saith *W. of Malmesbury*; the Laws of King Edward, say the fore-
mention’d Authors; the proper Laws, and antient Customs in which their Fathers
liv’d, say *Hoveden* and the Chronicle of *Lichfield*; the Laws of England, the antient
Laws of this Realm originally establish’d, say our Statutes; the Laws of the Land, the
good Laws of the Land, saith the Oath of *Richard the Second*; the Charters of the Li-
berties of England, the common Liberty, say the Contenders for them with King *John*
and *Henry the Third*; the fundamental Laws of the Kingdom, saith King *James*. Let
it be observ’d,

Ch. 9. p. 25.
26. Ch. 13.
p. 32.
Ch. 13. p.
32. c. 14.
p. 34.
First, Out of *Fortescue*, That our Kings rule not by Royal only, that is, Absolute,
but by Political Power; and that therefore a King of England ‘ cannot change the
Laws of the Body, nor invade their Properties, but as they do consent that he is
‘ advanc’d to the Throne for the safety of the Law, and his Subjects in their Goods
‘ and Bodies, and derives even this Power from the People; and therefore cannot
‘ lawfully rule over them otherwise.

F. 25. B. 26.
A.
F. 26. B.
F. 35. A.
Secondly, That this is the difference betwixt a King governing absolutely, and by po-
litical Power, that the first can change the Laws of his Kingdom, impose Taxes, and other
Burdens without consent of his Subjects; whereas a King who rules politically over his
People, can neither change the Laws without consent of his Subjects, nor charge them with
strange Impositions against their Wills: that a King ruling only by Power Royal may
easily become a Tyrant, but whilst the Kingly Power is restrain’d by the Political Law,
he cannot govern his People tyrannically: that the Contract made with a King
governing absolutely, is, that his Will shall be the Law; whereas a Political King
cannot govern his People by any other Power than that of the Laws.

An Arbi-
trary King
is no legal
King.
And from these Principles it clearly follows, That a King ruling arbitrarily, and
fundamentally overturning the Laws, is no such King as our Constitution knows,
or ever did admit of; that therefore no Obedience or Allegiance can be due to him
by Law, nor be intended in any legal Oath; unless we can suppose Men at the same
time intended to preserve their Constitution, and yet design’d to engage themselves
and others to be assistant to subvert it.

Case of
Oaths.
Thirdly, Let us consider the Rules laid down by the exactest Casuists, touching
the Cases in which the Obligation of an Oath ceaseth, and apply them to the pre-
sent Case. Thus then they say:

First, ‘ That (k) when the Matter of an Oath ceases, the Obligation of it ceaseth
‘ also; and that the Matter of it must then be judg’d to cease, when the state of
‘ things betwixt the time of swearing and of fulfilling the Oath is so changed, that
‘ if it could have been foreseen by him who took the Oath at the time of his swear-
‘ ing, he would not have taken the Oath. When (l) the Root of the Obligation
‘ is taken away, the Obligation thence arising must be taken away with it: Now
‘ that which gave the Ground for taking the Oath, is the Root of the Obligation,
‘ which followed upon the Oath.

Among the Conditions which are *de jure communi* to be understood in all Oaths,
tho they be not express’d; this, saith the Reverend Bishop *Sanderson*, and many of
the Schoolmen, is one, viz. (m) ‘ That things continue, and remain in the same
‘ state they were at the time of swearing: whence he that swore to restore a
‘ Sword, is not bound to do it to a Mad-man; and he that swore to marry such a

(k) Tunc enim cessasse materiam censendum est,
cum rerum status inter tempus jurandi, & tempus
adimplendi, ita immutatus est, ut si quo tempore
jurabatur, praevideri potuisset is qui postea insecu-
tus est rerum status, non omnino juratum fuisse.
Sand. de Juramento Præl. 7. Sect. 7.

(l) Quia Radice obligationis sublata, tollitur una
pullulans inde obligatio; fuit autem materia, quæ
causam dedit jurationi, Radix ejus obligationis, quæ
ex illa juratione insecuta est. Ibid.

(m) Subintelligendum quarto, rebus sic stanti-
bus, i. e. si res in eodem statu permanferint quo
nunc sunt; unde qui juravit reddere gladium, non
tenetur reddere furioso; & qui juravit ducere ali-
quam uxorem, non tenetur ducere, si deprehendat
eam esse ex alio viro gravidam: has, & istiusmodi
conditiones in omni juramento subintelligi fas est,
etsi non exprimantur; & rigidus nimis esset jura-
menti Interpretes qui istarum aliquam exclusum irer.
Præl. 2. Sect. 10.

‘ Woman, is not bound to do it, if he finds her afterwards with Child by another.
 ‘ These and such like Conditions, tho they be not express’d, are to be understood in
 ‘ all Oaths; and he that should exclude any of them, would too rigidly interpret
 ‘ his Oath.

Secondly, *Amesius* adds, that (n) ‘ in an Oath all those Conditions are to be
 ‘ understood, which by the receiv’d Customs and Manners of a Nation, are pre-
 ‘ sum’d to be conceiv’d as Conditions belonging to it.

And that (o) ‘ when the formal Reason of an Oath is taken away, the Oath
 ‘ ceaseth; and that this is the Case of them who swear to a Prince, or to a Master,
 ‘ who after ceaseth so to be.

Thirdly, The *Casuits* farther tell us, that a promissory Oath, made purely on
 such a Motive and Foundation, supposeth the continuance of that Foundation, as
 the Condition of its Obligation; and therefore ceaseth to oblige, when he to
 whom, and for whose sake it was made, *tollit fundamentum illud quo nitebatur*, re-
 moves the Motive and Foundation of it. For instance, (p) ‘ *Chremes* the Master
 ‘ swears he will give to *Sofia* ten Crowns *per annum*, and *Sofia* the Servant swears
 ‘ to serve him eight Years: if *Sofia* will not serve him the third Year, *Chremes* is
 ‘ not oblig’d to pay him ten Crowns at the Years end; or if *Chremes* will not pay
 ‘ *Sofia* at the Years end, *Sofia* is not bound to serve him eight Years: because this
 ‘ Payment was the sole Foundation of *Sofia*’s Service, this Service the sole Motive
 ‘ of *Chremes*’s Oath.

Promissory Oath
consider’d.

Fourthly, They add, that that without which it cannot in Equity and Reason be
 suppos’d that any reasonable Man would, or any honest Man should take an Oath,
 must be suppos’d as a tacit Condition in the taking of it; so that no Person is to be
 suppos’d to swear to do any thing, but with this proviso, as far as it is consistent
 with Equity and Justice. Thus tho *Solomon* promis’d to his Mother not to say nay to
 her request, yet when she ask’d *Abishag* the *Shunamite* to be given to Wife to *Ado-
 nijah*, because the Marriage would have been incestuous, or would have given him a
 pretence for disturbing of the Kingdom, *Solomon* breaks his Promise, and thereby
 shews that it was made with this proviso, If I may safely and equitably do it.
 Hence they infer that the Laws of Nature and self-Preservation must give tacit
 Limitations to our promissory Oaths, where they are general, and not expressive
 of Life and Death; because we have an Obligation to them antecedent to all Oaths;
 nor can it rationally be suppos’d that a Man would promise to ruin and destroy
 himself, where the publick Good did not make it necessary so to do.

If then the Kings of *England* be Kings by virtue of a Compact, originally made
 betwixt them and the People; if the Tenor of that Compact be on the King’s
 part, that he would ‘ govern them according to the Tenor of their antient Laws,
 ‘ Liberties, Charters, and Customs; or as the Coronation Oath now runs, that he
 ‘ will confirm to the People of *England* the Laws and Customs to them granted by
 ‘ the Kings of *England*; that he will grant to hold, and keep the Laws, and right-
 ‘ ful Customs which the Commonalty of his Kingdom have, and to defend and up-
 ‘ hold them as much as in him lieth; that he will preserve, and maintain to the
 ‘ Bishops, and the Churches committed to their Charge, all Canonical Privileges,
 ‘ and due Law and Justice, and will be their Protector and Defender to his Power;
 and this Oath and Compact be on the part of the Subject the very ground for his
 entering into a Promise, and Oath of Allegiance, the very formal Reason of it, the
 Motive and Foundation upon which it is built: When any King of *England* afterward
 makes void his Oath by an entire virtual dissolution of those Laws he had by Oath
 engag’d himself to keep and confirm, and plainly sets himself to destroy that
 Church he swore to protect and defend, and to deny them all due Law and Justice;
 he seemeth by just consequence to have made void the Motive and Foundation of
 that Allegiance they swore to him.

Inferences
from the
Violation
of the
Compact.

(n) In Juramento subintelligi debent condi-
 tiones illæ, quæ ex more & consuetudine receptæ
 concipi præsumuntur ab iis ad quos juramentum
 spectat. *De Cas. Consc.* l. 4. c. 22.

(o) Quum aufertur ratio formalis juramenti,
 juramentum cessat ratione eventus, qui casus est
 eorum qui jurarunt se obedituros domino aut prin-

cipi alicui qui postea cessat esse talis. *Ibid.* §. 36.
 Nec tenebitur, si cesset qualitas sub qua alicui ju-
 ravit, ut si Magistratus destinat esse Magistratus.
Grot. de Jure Bel. & Pac. l. 2. c. 13. §. 18.

(p) *Saunders. de juramento, prælect.* 4. p. 99.
Tombs lect. 18. p. 23.

Grotius informs us, that (q) the Promise of a King to his Subjects gives them a right to the thing promis'd, that being the Nature of all Promises and Contracts: And this it doth more certainly when it is a Promise of what was originally their Right only confirm'd by his Oath, and the very condition upon which they accepted of him or his Progenitors as their Kings; for as he rationally adds, (r) If a People make a King by such Laws, they make void what he doth contrary to Law, because as to such things they have reserv'd the Right unto themselves, or at the least they have limited his Right. But to what end is all this, if by their Oath of Allegiance afterwards they virtually disannul that Right they had reserv'd to themselves, take off all Limitations of the King's Right, and put it in his Power to break all his Promises without Control, by binding themselves to the same Allegiance to him when he doth so, as when he ruleth them by Law, and observes his Promises and Contracts? If therefore that must be suppos'd as a tacit Condition of an Oath without which it cannot in Equity and Reason be suppos'd that any reasonable Man would, or any honest Man should take an Oath; if it cannot rationally be suppos'd that any body would promise, or swear to ruin and destroy themselves, their Lives and Fortunes, it cannot be suppos'd that they would consent to such an Oath of Allegiance, as doth entirely oblige them to suffer themselves and their Constitution to be ruin'd, and to be assistant to it; and therefore the tacit Condition of that Oath must be, Provided that the Commands of their Superior be according to Law, and he doth govern them by Law.

A King governing by his Will and not by Law, is no King of England.

Again, if according to *Fortescue* our Kings rule not by Absolute, but by Political Power, and therefore cannot change their Laws, or invade the Properties of the Subject but by their Consent; if he be advanc'd to the Throne for the safety of his Subjects in their Goods and Bodies; if this be the difference betwixt an Absolute and a Political King, or King of *England*, that the Will of the first is his Law, but the Law is the Rule of the Will of the second; the first can change the Laws of his Kingdom without the Peoples consent, the second cannot; the first may easily be a Tyrant, the second cannot govern his People tyrannically: And if from hence it follows, that a King ruling arbitrarily, and fundamentally overturning the Laws, is no such King as our Constitution owns, or ever did admit of; and therefore that no Allegiance can be due to him by Law whom the Law knows not, nor ever did suppose, but rather always did exclude: Then he who being a Political King, makes himself absolute, requiring in one of his Kingdoms to be obeyed without reserve, in another setting up Governors and Viceroy's disabl'd by Law to be so, in a third part of his Dominions virtually dissolving all the Laws against Popery, by admitting a *Pope's Nuncio*, dispensing with the Laws, forbidding them the exercise of their Religion, and the taking upon them Offices Civil and Military, and by just Consequence of all the Laws of the Kingdom, by claiming an unlimited Power of dispensing with them; he who was entred into a League with a potent Monarch, to set up Popery and Arbitrary Power in *England*; he who was bound by the Principles of his Religion to destroy the Church of *England*, and to give up Protestants to suffer the Punishment decreed against *Hereticks* by the *Romish Church*, and had begun to dissolve her Colleges, and silence her Bishops by an Illegal Arbitrary Commission, and was so wholly given up to the Will of the Jesuits, that nothing else could be expected from him, He certainly must be none of the Kings to which we swore Allegiance; and by refusing to be a Political King, the only King our Laws will own, he must have absolv'd his Subjects from that Allegiance which is due only to such a King. If *Rebus sic stantibus* be, as the Reverend Bishop *Sanderfon* saith, a condition of all Oaths; if the matter of the Oath must be then judg'd to cease when things so change, that if the Change could have been foreseen, the Oath would not have been taken; then much more must the Obligation of it cease, when so great a change is made as from a Political to an Absolute King, from a King ruling by Law and protecting the Church, to a King ruling against Law, and subverting the Church against both his Oath and Law.

(q) Dicimus ergo ex promisso & contractu Regis, quem cum subditis init, nasci veram & propriam obligationem quæ jus dat ipsis subditis; ea enim est & promissorum, & contractuum natura. De jure Bel. & pacis, l. 2. c. 14. §. 8.

(r) Plane si populus Regem fecerit non pleno jure, sed additis legibus, poterunt per eas leges contrarii actus irriti fieri aut omnino, aut ex parte, quia eatenus populus jus sibi servavit. Ibid. §. 2.

The same Learned Bishop saith, That (s) 'if a Soldier swears Obedience to a General or Commander of an Army, when he ceases to be General, his Oath ceases to oblige; and if a Father swear never to change his Will in which he has made such a Son his Heir, he is absolv'd from that Oath, if his Son afterward endeavor to poison him; that an Oath to deliver a Sword binds not to deliver it to a mad Man, who may destroy himself or me with it: And an Oath to marry a Woman binds not to do it, if she prove with Child by another. Why therefore should an Oath of Allegiance made to a Politick King, ruling by Law, bind us to pay that Allegiance to a King ruling arbitrarily? he ceasing as much to be that King we swore to, as a General plainly going about to destroy his Army ceaseth to be their General, and being as much different from his former self, as a Woman pregnant from a Virgin; and as like to be pernicious to the Government, as a Son attempting to poison his Father would be to him, or a Madman to them who should give him a Sword. And all this seems plainly to be contain'd in those excellent words of (t) King James, 'that the King was *lex loquens*, after a sort, binding himself by a double Oath to the Observation of the Fundamental Laws of his Kingdom; tacitly AS BY BEING A KING, and so bound to protect as well the People as the Laws of his Kingdom; and expressly by his Oath at his Coronation, so as every just King in a settl'd Kingdom IS BOUND TO OBSERVE THAT PACTION MADE TO HIS PEOPLE BY HIS LAWS, in framing his Government agreeably thereunto. And therefore a King governing in a settl'd Kingdom LEAVES TO BE KING, AND DEGENERATES INTO A TYRANT, as soon as he leaves off to rule according to his Laws. —Therefore all Kings that are not Tyrants, or perjur'd, will be glad to bound themselves within the Limits of their Laws; and they that persuade them to the contrary are VIPERS and PESTS, both against them and the Commonwealth. Where it is granted,

Positions.

- 1st. That there be Fundamental Laws of the Kingdom. And
- 2^{ly}. That our Kings, even by being Kings, do tacitly bind themselves to protect the People, and the Laws of their Kingdoms.
- 3^{ly}. That the King makes a Paction with his People by his Laws, which Paction he is bound to observe. And,

4^{ly}. That as soon as he leaves off to rule according to his Laws, HE LEAVES TO BE A KING; and then certainly we must leave to be of right his Subjects, or to owe him Allegiance. And tho even in this case I cannot yet approve of Subjects taking up Offensive Arms against a King on this account, because I know not what Power of avenging themselves they have, or how the Sword is put into their Hands to do it, nor who hath made them Judges in their own Cause; yet if Providence is pleas'd to send a θεός ἀπὸ μηχανῆς, another Prince to free us from a King who hath thus violated his Compact, and not only thus leaves to be King, but doth it also by deserting us, and so far abdicating the Government, which is our present Case; then I am apt to think we may honestly accept of this Deliverance, as being formerly absolv'd *de jure* from our Allegiance to such a King.

A King ceases to be King when he ceases to rule by Law.

And lastly, let it be observ'd, that all our Kings if they were capable, were crown'd soon after their coming to the Throne, or the Decease of their Predecessors, the Ceremony till of late being only omitted in the Case of Henry the Sixth, a Child of nine Months old; that at their Coronation they generally took their Oaths to preserve their Peoples Rights and Liberties, and govern them by their old and good Laws and Customs; and that they receiv'd Homage of their Subjects at the same time: That the usual Custom was, and still is, first, that they take their Coronation Oath, and then the Archbishop ask the People whether they be willing to subject themselves, and pay their due Allegiance to a King so sworn: That if any of them at their Coronation refused to promise these things, they endeavor'd to hinder their Coronation till they had satisfaction in that Point; that sometimes the Bishops, before their Coronation, acquaint the People with the Constitution of the King and Kingdom, how the King should behave himself to

Obligation of the Coronation Oath.

(s) Si quis ergo miles juret Obsequium belli Imperatori, finito demum bello, cum ipse desierit esse Imperator, non ultra tenetur ex juramento Obsequium ei præstare; & si Pater aliquis jureret se Testamentum in quo filium instituisset Hæredem nunquam mutaturum, comperto tamen postea

filium Hæredem institutum Patri venenum miscuisse, Pater non ultra tenetur juramento. Præl. 7. §. 7.

(t) Fourth Speech at Whitehall, A. D. 1609. p. 530, 531.

them, and in what things they were to obey him, on which the Practice of the Bishops in the Case of *Magna Charta*, and *Charta de Forestis*, gives us a sufficient Comment; sometimes the Archbishop at their Coronation adjures them by God not to take the Crown upon them, unless they uprightly intended to observe their Oaths: Sometimes they promised Homage and Allegiance only conditionally, provided that their Laws might be granted, and that the King would be true to his Engagements, as in the Case of (u) *Henry the First*, and of King *John*: Sometimes upon the attempts of their Kings wholly to violate their Rights, Liberties, and Properties, they give them back their Homage, and resign it to them, and declare themselves no longer oblig'd to it, nor guilty if they do not pay it. So that if there were no such Evidence of a Contract as we have given, if the nature of a Political Government did not require and suppose it; If (x) Sir *H. Spelman* had not so expressly said, that the Oath of Allegiance is reciprocal betwixt King and Subject, yet these things plainly seem to prove the Oath of Allegiance is, or was at least by our Forefathers thought to be reciprocal: and if so, then have the generality of *Casuits* plainly determin'd, that it must cease on the one part, when the very Substance of it is plainly and perseveringly violated on the other. For both (y) *Papists* and *Protestants* unanimously agree in this, that when an Oath is reciprocal, or conditional, if one part break the Covenant, and violate the Condition, the other is free from the Obligation of the Oath: For as a conditional Proposition, say *Logicians*, puts nothing in being, but when the Condition is put, it becomes absolute; so a conditional Obligation becomes then only absolute, when and whilst the Condition is put, and therefore ceaseth when it is remov'd. Besides, the Engagement on the one side would not have been without the Engagement on the other; and therefore the performance of it must depend on the performance of the other. And 3ly, Otherwise these Oaths would serve only for a snare to honest Men, as v. g. 'Put the case the Governors of two Armies mutually swear not to fight in so many days, if one Party breaking his Oath, and fighting, the other be oblig'd by his Oath not to fight, it would be all one as if he had sworn to deliver up himself, and his Army to be butchered; which is contrary to the Law of Nature. In like manner, if a King hath so far violated his Oath, as to set himself directly to overthrow those Laws, and to destroy that Church he bound himself by Oath to defend; If he hath not only engag'd himself in a Religion, which binds him upon pain of Damnation to overthrow all the Laws made to keep it out, and to give up all his Subjects to suffer all the Punishments decreed by the Roman Church against Hereticks, that is, the loss of Goods and Life; If he hath entred into a League with another Potent Monarch to set up Popery, and Arbitrary Government in England, and yet his Subjects must be oblig'd to bear Allegiance to him by virtue of their Oaths; then must they be ensnar'd so far by them, as to deliver up their Laws and Church to be destroy'd, if not to assist their Prince in doing of it.

I am not ignorant that Bishop *Sanderson* puts the Case thus: (z) 'A King one time swears simply, and without respect to the Fidelity of his Subjects, to govern the Kingdom justly, and according to the Laws; the Subjects at another time simply, AND WITHOUT RESPECT TO THE PRINCE'S DUTY, swear to yield him due Fidelity and Obedience; they are both oblig'd faithfully to do what is their Duty, tho' the other Party fail of his: so that neither is the King absolv'd from his Oath, if the Subjects do not yield him their due

(u) Of Hen. I. M. Paris p. 38. Sub tali igitur conventionem supradicti Comites & Barones juraverunt Johanni Duci Normanniæ fidelitatem & fidele servitium contra omnes homines. Annal. Mon. Burton. p. 257. M. Paris p. 137.

(x) Liguntia est vinculum ætius inter subditum & Regem, utroque; invicem connectens, hunc ad protectionem & justum regimen, illum ad tributa & justam subjectionem. Glossar.

(y) Cum aliquid promissum est ob causam quæ subesse putabatur, & non subest, ut si juraveris te facturum aliquid eo quod beneficium aliquod te impetraturum sperabas, quod tamen non impetrat, tunc ad implendum promissum non teneris, quia conditio illa tacite in juramento fuit inclusa; si beneficium impetraverit, conditio autem non im-

pletâ, promissio ipsa, licet jurata, obligare cessat. Baldwin de Cas. Consc. l. 2. c. 9. Cas. 17. Rivet Explic. Decal. p. 131. Mr. Tombs lect. 18. p. 123, 124. Bp Sanderson de juram. prælect. 4. §. 8. p. 99.

(z) Rex aliquis simpliciter, & citra respectum ad fidelitatem subditorum, jurat se Regnum administraturum justè, & secundum Leges; subditi alio tempore simpliciter, & citra respectum ad Principis Officium, jurant se ei debitam fidelitatem & obedientiam præstituros, utriusque obligantur quod sui est Officii fideliter facere, etsi defecerit altera pars à suo Officio; ita ut neque Rex solutus sit suo juramento, si subditi debitum Obsequium non præstiterint, nec subditi suo, si Rex à justitia tramite deflexerit. De juramento præl. 4. §. 2. p. 100. Obe-

Obedience, nor are the Subjects absolv'd from their Duty, tho the King deviate from the way of Justice. By this Decision I was a long time diverted from ever thinking that the Oath of Allegiance was Reciprocal, or made by the Subject with respect to the Duty or the Oath of the King, or the nature of our Kingly Government; but upon perusal of our Historys I find that all our Ancestors thought otherwise, or at least acted as if they really believ'd the Oath was reciprocal, and made with respect to the Obligation which was upon their Sovereign, *tacitly as by being a King, and expressly by his Oath at his Coronation, to protect as well the People as the Laws of the Kingdom.* Nor is there any thing in these words, besides the Authority of that great Man, to shew the contrary. For, *Oath of Allegiance binds reciprocally.*

1. When the King swears to protect his People, this sure doth not oblige him to protect an Out-Law, or a Rebel: 'tis therefore plain, that this part of the Oath respecteth the Fidelity of his People.

2. Whereas he saith, *the King simply, and without respect to the Fidelity of his Subjects, swears to govern the Kingdom justly, and according to the Laws*; 'tis very reasonable he should do so, because he is a King only by and according to the Laws, and because the Laws have provided him a remedy against the undutifulness of any of his Subjects: If any particular Subject offend against his Government, he can punish him by Law; if any number of them prove Rebels, he can cut them off by Law; if all of them prove so, when he hath Power sufficient he hath them all at his Mercy by Law, and they have forfeited both Lives and Fortunes to him, and what could he desire more? Whereas, if the Subject be bound to yield Allegiance to the King, tho he deviate never so much from the way of Justice, tho he usurps as much upon their Lives and Fortunes, without their violation of the Law, as if they were the worst of Rebels, they are left in a very deplorable Condition; nor is it any advantage to them that they have Fundamental Laws by which they ought to be govern'd, or that the Government is Political, and tied to the observance of the Laws, and not absolute, or that the Governor is sworn to rule according to Law; seeing upon his Supposition, they are as much enslav'd by their Oath of Allegiance, as they could be, were their King absolute, tied to no Oaths or Laws, but free to deal with them at his Pleasure.

Nor doth it alter the Case at all, that the King swears to govern by Law at one time, and many of them swear Allegiance at another: For besides what I have shew'd, that the Custom antiently was, and still is, at the very time of his taking the Coronation Oath, for the Subjects to declare their acceptation of him thereupon as their King, and for some of all Orders to do him immediate Homage in the name of the Rest, which seem to be evident marks of Stipulation, and mutual Engagement: I say, besides this it seems not at all material to the business, when the Oath is taken, provided that the Ground, Reason, and Foundation or chief Motive of it, whensoever it be taken, is the aforesaid Contract of the King to govern them by Law, either already made, or at his Coronation to be made.

A

A Discourse concerning the Unreasonableness of a New Separation on account of the Oaths.

With an Answer to the History of Passive Obedience, so far as relates to them.

S I R,

YOUR former Letter gave me an Account of your own and others Dissatisfaction about the Oaths: but your second carries the Point a great deal farther; for therein you tell me, *Those who are unsatisfy'd, think themselves bound to separate from the Communion of those who have taken them; and that if Ease be not given to the Scrupulous, new Congregations will be immediately form'd; and therefore you beg my Assistance in clearing these Points, in order to the preventing a new Separation.*

I was not a little surpriz'd at the reading these Passages; and I soon apprehended the mischievous Consequence of a new Schism, especially among the Members of the Church of England. But I can hardly think it possible that those who have express'd so great a Sense of the Mischief of it in others, should be so ready to fall into it themselves, and that upon the mere account of Scruples; when the Difference is only about the Resolution of a Case of Conscience, wherein wise and good Men may easily differ: But it cannot be a Mark either of Wisdom or Goodness, to separate from those who do so. Some think the Oaths lawful, and therefore take them; others do not, and therefore forbear: But is taking the Oaths made a Condition of Communion with us? Is it requir'd of all who join in our Worship, at least to declare, That they think the taking of them lawful? If not, what colour can there be for breaking Communion on the account of the Oaths?

Suppose those who take the Oaths are to blame; If they act according to their Consciences therein, what ground can there be of Separation from them for so doing, unless it be lawful to separate from all such who follow the Dictate of an erroneous Conscience? And so there can be no end of Separation till all mens Consciences judg alike: for a man's Conscience is his practical Judgment concerning moral Actions; and there are so many Circumstances which vary the Nature of such moral Actions as Oaths, that I do not wonder to see Men differ about them; but I should wonder and lament to see them separate from each other for the sake of such a Difference.

*Tender and
four Con-
sciences
differ.*

But there is a great deal of difference between a *tenderness* and a *sourness* of Conscience. There is a natural tenderness in the Eye, which makes it apt to be offended with Motes, and in that Case it is to be gently dealt with; but when an ill Humour falls into it, there seems to be greater tenderness, but from a worse Cause; and then the best way of Cure is to sweeten or remove the bad Humour which caus'd it. I cannot imagine why, because some mens Consciences are so tender in the Point of Loyalty that they cannot take the Oaths, that they must be so tender too as not to join in Communion with those who do it. This seems to come from another Cause, and not from the original Scruple: Are they afraid of joining with others, not so tender as themselves? This is the Scruple about *mixt Communion*, which hath been so long exploded among us. What then? Have we hereby chang'd the Standard of our Communion, or are there in this Case impos'd any new Terms of Communion with us? How then comes a Scruple about the Oaths to lead Men to think of a Separation? How come they to make so much Conscience of one, and so little of the other? Is a Separation from our Church become a Duty with those who so lately look'd

look'd on it as so great a Fault in others? But, I perceive, a tender Conscience is like a tender Constitution, it is soon put out of order: So much greater care then ought those to have who forsake any worldly Advantages for the sake of their Consciences, lest that which begun with a Scruple, at last end with Humour and Faction, and the Ruin of that Church which they have always pretended to value.

But to leave these general Reflections, I shall now apply my self to the main Point, Whether there be any Reason for those Scruples about the Oaths? for if there be not, it will be granted that there can be no reason for a Separation on the account of them. If there be any reason, it must arise, either from the continuing Obligation of the former Oaths; or from the Nature of the present Oaths: And therefore I shall enquire into two things:

First, The Nature and Measure of the Obligation of Political Oaths in general.

*Nature of
Political
Oaths.*

Secondly, The Difficulties which relate to our Oaths in particular.

First, As to the Nature and Obligation of Political Oaths, by which I mean such as have immediate and particular respect to human Society, and the Government we live under; as all Oaths of Allegiance do.

And herein the difference lies between those and the common Oaths between Man and Man; because these are founded on an Equality of Right, but the other on the general Security of human Society.

In Political Oaths we must distinguish the particular Intention of the Persons to whom they are made, from the general End and Scope of the Oaths themselves. I do not deny but such Oaths at first came from the mistrust which those in Power had of such as were at present in subjection to them. And because the Fears of a Deity made the strongest Impression on peoples Minds, therefore they were not contented with bare Promises, but they added the Solemnities of Oaths, that they might look on God as concern'd both as a Witness and a Judg.

But if we search narrowly into this Matter, the Obligation comes not from the bare Oath, but from something antecedent to it, or from the Promise contain'd in it, to which the Oath adds greater solemnity on the account of Religion. And therefore it is generally resolv'd by the Civilians as well as Casuists, That an Oath follows the nature of the thing about which it is conversant; for that, say they, is the Principal, and the other is but the Accessory; and the Accessory still follows the nature of the Principal.

*Less. de
Just. &
Jure, l. 2.
c. 17. n. 52.*

Even Molina, who is noted for singularity in this Matter (for asserting, That an Oath added an Obligation of Justice besides that of Religion) yet when he comes to explain himself, he founds it on the Promise included in the Oath, and not in the Oath it self: For after an Oath taken, such as the Obligation was before such is it after, and the Promise contain'd in an Oath admits of the same Conditions which it would have had if no Oath had been joyn'd with it.

*Molina de
Just. &
Jure, tr. 3.
disp. 150.*

If there be a Law which makes a Contract void on account of the publick Good, the adding an Oath to such a Contract doth not make it valid: As for instance, If the Law of a Country makes void all clandestine Marriages; if a Man marries a Woman after such a manner, altho this be an Obligation of the strictest nature, yet such is the Force and Power of Laws made for a publick Good, that altho the Intention of one Person was to tie the other in an indissoluble Bond; yet the Law supersedes that Obligation, or else it is made to no purpose, at least, so far as it relates to the Civil Contract, which is as much as is necessary to my Purpose; for even that hath an Obligation of Conscience going along with it, which however in this Case is superseded for the publick Good.

I do not deny that the chief Intention of those who require Oaths of Allegiance to themselves, is to bind Men as fast as may be to them; and there is a personal Obligation consequent upon it. But then, I say, that the Rule and Measure of it is not to be taken from such Intention of the Persons, but from the general Good which was chiefly intended in such things: For there is a common Good of human Society which Mankind have an Obligation to, antecedent to that Obligation they are under to particular Persons. For as Magistrates were design'd for a general Good, the Obligation to them must be understood so, as to be still in subordination to the main End.

*General
Good the
Rule of
Oaths.*

And it is agreed on all hands, That an Antecedent and Superior Obligation doth void that which is subsequent and inferior when they contradict each other, else an Oath might bind a Man to sin, which no Man will assert.

There-

Intention of
the Person.

Therefore whatsoever the Intention of the Persons was, how strict soever the Expressions may be, if the keeping of the Oath be really and truly inconsistent with the Welfare of a People in subverting the fundamental Laws which support it; I do not see how such an Oath continues to oblige: For there is no Relation of Mankind one to another, but there is some Good antecedent which is the just Measure of that Obligation they stand in to each other. Thus it is between Parents and Children, Husbands and Wives, Masters and Servants; and therefore it is most reasonable to be so between Princes and their Subjects.

A Vow to God is as solemn a thing as an Oath; but our Saviour declares, if it hinders that Good which Children are bound to take care of with respect to Parents, it ceaseth to oblige. If Parents, instead of regarding the Good of their Children, do openly design their Ruin, and contrive ways to bring it about; none will say but that they are bound to take care of their own Welfare, altho such Parents may call it *Obstinate Disobedience*: For even the Government of Parents, as natural as it is, is not Absolute, but is limited by Reason and the Good of their Children. And when they are of Age, they are allow'd to judg of what concerns their Welfare, and (if it be necessary) to withdraw from their Parents immediate Care, but preserving a due reverence and respect to them.

Dominion
Force by
Slavery.

The hardest Case we can suppose is that of Slavery, *i. e.* of *Dominion by Force*; but altho the Law of Nations allows it, yet it is with such Limitations as still shew, That whatever the Condition of Men be with respect to one another, there is still a regard to be had to the Benefit of those who are in subjection to others.

The only thing which makes a state of Slavery reasonable, is, That when Men are taken captive by others, they are at their mercy; and the giving of Life is so great a benefit, as cannot be compensated by any thing less than a perpetual Service; and in consideration of it, the Master is to afford Protection and Maintenance. Still we see all reasonable Subjection is in order to some good of those who are under it; and without it, as *Aristotle* saith, *They are not us'd as Men, but as Tools*. And it is agreed by the best Writers on this Subject, that if the Slave be kept in Chains, he is under no obligation of Conscience to him that keeps him; but he may find his own way to escape because he is treated as an Enemy, and therefore hath all the Right of War on his side. But if he yields upon Terms, then he is under Obligation, but it is according to the Terms upon which he yielded himself.

De Civ.
c. 8. n. 7.

Mr. *Hobbs* indeed saith, *That those who submit upon Compact, are capable of no Injury afterwards, because they have given up their Wills already, and there can be no Injury to a willing Mind*. But this is very false reasoning; for he grants, That where there is such a Compact, there goes some Liberty or Privilege along with it. And it is not to be imagin'd, that such who entred into Compact for their benefit, should renounce all right to it when they have done it; and if they have right, they may be wrong'd. And in the case of the greatest slavery, natural Equity was requir'd, and a common Right was still due to Slaves, as Men: So that Nature owns no such thing, as mere Absolute Power in some over others, merely for their own Advantage; but all reasonable Power supposes Consent, and a Good to be attain'd by it. But when it is carry'd to a contrary End, it is against the Intention of Nature, which lays an Obligation on some Men towards others, with regard to a common Good, which cannot otherwise be attain'd.

Arist. Nic.
l. 8. c. 13.
Senec. de
Clem. l. 1.
c. 18.

Opinion of
Casuists.

It is not deny'd by the strictest Casuists in these Matters, but that *under a state of Usurpation, notwithstanding their Oaths to the rightful Prince, Men are bound to do those things which tend to the publick Safety as well as their own*. But then they found it upon a *presumptive Consent of the absent Prince*; whereas the true reason is, That Men are in the first place bound to promote the Publick Good, and consequently, and with respect to it, to regard the Will of their Princes, who are appointed by God and Nature for that end. And if such be rendred incapable of doing it, yet the Obligation on others remains. Whereas if it depended on the Will of the absent Prince, his presumptive Will would not be sufficient, for that can lay no Obligation.

But that the Publick Good is the true and just Measure of the Obligation in these Oaths, doth further appear, in that the Oaths are reciprocal: Whereas if only the Good of the Persons to whom Oaths of Allegiance are made, were to be our Rule, then there would be no mutual Oaths. I am not now enquiring how far in reciprocal Oaths one Party's failing disoblige the other; but I am shewing, that it must be a general Good that is aim'd at when both Parties are sworn to each other. So it was in the strictest Feudal Allegiance, the Lord was as much sworn to the Tenant to protect

protect and defend him in his Rights, as the other was to attend him in his Wars for the security of his Person. And this was certainly founded on a mutual Contract, call'd by the old Feudists *Liga*, and thence *Ligeas* and *Ligeantia*, and so our *Allegiance*. The words of (a) *Glanvil* and *Bracton*, and the *Customary* of *Normandy*, are plain, to shew the *reciprocal Obligation* in this Case; and the Measures on both sides were to be the *Rights, and Customs, and Laws of the Land*. So that *Allegiance* originally implies a Compact, and is to be measur'd by the *Laws*, which are the Standard of the *Publick Good* of a Country.

Secondly, Having thus in general fix'd these Grounds to proceed upon, I come to the particular examination of the Difficulties which relate to the present Oaths; and because we are charg'd with *Apostacy from the Principles of the Church of England*, and that is made the main Ground of the design'd Separation, I would fain know what this Charge is built upon with respect to the Oaths, for that is all we are concern'd in. If any particular Persons have advanc'd new Hypotheses of Government, contrary to the Sense of our Church, let them answer for themselves: The Case of the Oaths is quite of another nature.

Apostacy from the Principles of the Ch. of England vindicated.

Here is no renouncing the *Doctrine of Passive Obedience*, or asserting the *Lawfulness of Resistance*; but the single Point is, "Whether the Law of our Nation doth not bind us to Allegiance to a King and Queen in actual possession of the Throne, by consent of the Three Estates of the Realm? and whether such an Oath may not lawfully be taken, notwithstanding any former Oath?"

And by this very stating of the Case, any one may see how impertinent to this purpose the Book call'd the *History of Passive Obedience* is. The truth is, there are not many Passages in it which come near the business; but those that do, contain in them the main Difficulties which relate to the Oaths, and therefore I shall impartially consider them. Which are these,

- I. That they are to the prejudice of a third Person.
- II. That they are contradictory to a former Oath.
- III. That the Person to whom they were made, hath given no release or discharge from them.

Difficulties to be explain'd.

For the First we have these Testimonies; Bishop Hall, p. 46. saith, *That a Promissory Oath, which is to the certain prejudice of another Man's Right, cannot be attended with Justice.*

Bishop Sanderfon, p. 61. 'An Oath impos'd by one that hath not a just Authority, is to be declin'd as much as we can: if it be forcibly impos'd, it is to be taken with reluctancy upon this condition, that the Words imply nothing unlawful or prejudicial to the Rights of a third Person; for if so, we must refuse the Oath at the peril of our Lives.

I grant, it is a Rule among the Casuists, That an Oath ought not to be taken to the prejudice of a third Person; but so it is likewise, That it ought not to be taken against the Publick Good; and these two are often put together. 'It is a Sin, saith *Zoesius*, to make a Compact to the publick Prejudice and Injury of another; and an Oath that is conversant about such a Matter, is unjust, and not to be kept. So that the Right of a Third Person is not to be taken as distinct from the Publick Good; for if it be inconsistent with it, there is no ground to set up a personal Interest against a general Good. And so far a Mischief is better than an Inconvenience; for it is a standing Rule in Reason as well as Law, The publick Right cannot be chang'd by the Contracts of particular Persons, ff. l. 2. tit. 14. If a Man take an Oath to a Third Person, to do something which the Law forbids; altho he suffers by it, yet it is concluded, That such an Oath doth not bind, because the Publick Good is to be prefer'd: As often as a Compact doth depart from the common Right, it ought not to be kept; nor is an Oath requiring it to be observ'd. ff. l. 2. tit. 14. *Juris Gentium*, §. 16. And again, An Oath against the Force of Law and Authority of Right is of no moment. What is the Reason that an Oath doth not bind against the Law? Is not the Authority of God above that of Men? No doubt of it; but since God hath establish'd Government and Laws for a Publick Good, their meaning is, That Men cannot, by any

No Oath to be taken to the prejudice of a 3d Person. Zoes. in Dig. l. 12. Tit. 2. n. 66.

Jus publicum privatorum pactis mutari non potest.

(a) Mutua quidem debet esse Domini & Homagii fidelitatis connexio, ita quod quantum debet homo Domino ex homagio, tantum illi debet

Dominus ex Dominio præter solam Reverentiam. *Glanvil*. l. 9. c. 4. *Bracton*. l. 2. Sect. 2. *Cust. Norm.* c. 43.

Act of their own, be bound to overthrow it, in what solemn manner soever it be done.

It is resolv'd in the Text of the Canon Law, in the King of Hungary's Case, That an Oath taken against the Good of the Kingdom, doth not oblige, *De jurejur. c. 33. intellecto*, altho it were to the prejudice of others; because it was in *præjudicium Regni sui*, to the prejudice of his Kingdom, which was more to be regarded; and because it was contrary to the Oath which he took at his Coronation, *Jura Regni sui illibata servare*, to preserve the Rights of the Kingdom inviolable.

Sylvester in sum. 6. juram. 4. n. 16. saith roundly, 'That an Oath doth not bind against the Publick Good in the first place; but if it be for a private Benefit principally, and consequentially for the Publick, then the Oath holds; because still the Publick Good is to overrule in all such Oaths.

If a Man swears to keep a Secret, and that be to the prejudice of a third Person, the Casuists say, That Oath doth not oblige; how much less where the Publick Interest and Safety is concern'd?

Oath of Secrecy when hurtful.

And it is generally agreed by our Divines, That an Oath of Secrecy, where the Publick Safety is in danger, doth not bind; as in *Garnet's Case*, who pleaded his Oath for not discovering the *Gun-powder Treason*. Now if an Oath doth oblige against the common Good, *Garnet* made a good Plea; for his Discovery was to the prejudice of others: but if his Plea was naught, then the Publick Good doth make the Obligation of an Oath to cease.

Suppose a Man makes a Contract with another, who thereby acquires a Right; yet if that Contract be against the common Good, and be confirm'd with an Oath, that Oath doth not oblige, saith *Bonacina de Contract. disp. 3. q. 1. p. 1.*

There are two sorts of Laws, saith *Suarez*, which respect the Publick Good; some which concern *ipsum statum Reipub. & utilitatem communitatis*, the general State of the Commonwealth, and Benefit of the Community: Others which concern *Bonum commune mediante privato*, that common Good which results from every Man's Good. Against the former, he saith, an Oath cannot oblige; but in the latter, it may as far as concerns his own Benefit. *Suarez de juram. l. 2. c. 26.* 'No Obligation, tho sworn to, is of any force against those things which are owing to God and the Kingdom, saith *Zeiglerus* in his Notes on *Grotius de jure B. & P. l. 2. c. 13. Sect. 7.*

From all this it appears, That if the Right of a Third Person be inconsistent with the Publick Good, such an Oath doth not oblige. And it is to be observ'd, that those Persons whose Testimonies are alledg'd, never put the Case of the Right in a Third Person, and a Publick Good standing in competition; and therefore they do not reach our present Case.

II. It is alledg'd, That this Oath is contradictory to a former Oath.

Bishop Hall again, *History of Passive Obedience*, p. 46. 'No Oath is or can be of force that is made against a lawful Oath formerly taken; so that he that hath sworn Allegiance to his Sovereign, and thereby bound himself to maintain the Right, Power and Authority of his said Sovereign, cannot by his second Oath be tied to do ought that may tend to the infringement thereof; and if he hath so tied himself, the Obligation is, *ipso facto*, void and frustrate.

No doubt, if the first Oath continues in force, the second is void so far as it contradicts it. But we say, the former Oath is not in force, as it is repugnant to the publick Good, and so the second may be taken without any Contradiction: And if the Doctrine there laid down holds in our Case, I cannot see how it is consistent with the former Oath, for any such Persons to continue under the protection of the present Government, or to enjoy the Benefit of the Laws; or to take out a Writ in their Names, any more than to pray for them, the one being owning their Authority as much as the other.

Contradictory Oaths of no force.

III. Because the Person who had the Right hath given no Release.

For this Dr. Hammond is quoted, in his *Practical Catechism, History of Passive Obedience*, pag. 54. 'S. but was not *Tiberius* an Usurper? and yet Christ saith, 'Render to *Cæsar* the things that are *Cæsar's*. C. *Julius Cæsar* wrested the Power out of the Hand of the Senate; but before the Time of *Tiberius* the Business was accorded between the Senate and the Emperors, That the Emperors now reign'd unquestion'd, without any competition from the Senate: which Case, he saith, is distant from other forcible Usurpations, where the Legal Sovereign doth still

claim

claim his Right to his Kingdoms, and to the Allegiance of his Subjects, no way acquitting them from their Oaths, or laying down his Pretensions.

To clear this Matter I shall enquire into two things.

1. How far a Discharge is necessary from the Person concern'd.
2. How far our Saviour's Rule holds in our Case.

As to the former I say, The Resolution of Conscience in this Case doth not depend upon the Will and Pleasure of the Person to whom the former Oath was made, but upon the Grounds on which it was made, and from which it had its Force to oblige: And if those cease, the Obligation of the Oath ceases together with them. And whether they do or not, no particular Person is so fit to judg as the three Estates of the Realm; as I shall now prove from several remarkable Instances to this purpose in our Histories and Parliament Records: whereby I shall make it appear, that when a Dispute hath happen'd about the Right of Succession, and to whom the Oaths of Allegiance were to be made, they have look'd on it as their proper Right to limit the Succession, and to determine the Oaths.

How a Release is obtain from an Oath.

Under the *British* Government we find a considerable Instance to our purpose: *Instances in History.* *Vortigern* the *British* King had enter'd into a Secret League to bring over the *Saxons*; upon which (a) *the great Men of the Nation deserted him, and chose Vortimer in his room.* Here it is plain, they thought the introducing a Foreign Power a sufficient discharge of their Obligation to him, it being so directly contrary to the publick Good of the Nation, altho *Vortigern* gave them no discharge.

In the *Saxon* Times, *Sigebert* King of the *West-Saxons* was complain'd of for *Misgovernment, and for changing their Laws* for his own Ends; but (b) when he persisted in his way, there was a Convention of the Nobility and People (*convenérunt Proceres Regni cum Populo universo, saith Matt. Westminster*) and they declar'd themselves free from Allegiance to him, and chose *Kineulfus* in his room. *In the Saxon Times.*

In the Kingdom of (c) *Mercia, Beornredus* for not governing by the Laws was by a Convention of the Nobility and People set aside from the Government, and *Offa* chosen King, who was of the Royal Stem but not the next Heir: and so (d) *William* of *Malmesbury* observes in the *West-Saxon* Kingdom after *Ina*, *That no lineal Succession was then observ'd; but still some of the Royal Line sat on the Throne.* And of *Ina* himself, (e) 'That he was rather put into the Throne for his Virtue, than by Right of Succession.'

Ethelulphus, King of the *West-Saxons*, went to *Rome*, and there crown'd *Alfred* his youngest Son King, and marry'd the King of *France's* Daughter in his return, and made her Queen, against their Laws; for which Reasons he was excluded his Kingdom: his eldest Son, and *Alstan* Bishop of *Shireburn* being at the top of this Act of Exclusion; and he came back only upon the Terms of receiving his Son into a Share of the Kingdom: Which shews, that they look'd on the Laws as the Measure of their Allegiance; and where those were openly broken, that it was in their Power to transfer it. *M. Westm. A.D. 854, 867.*

If our Allegiance cannot be transfer'd by the States of the Realm, it must be because (as some think) by the fundamental Constitution of this Kingdom we are bound in Allegiance to the *next right Heir in a lineal Succession*: but I find no such thing in the *Saxon* Times; for altho generally they kept to the Royal Line, yet not so, but that when it appear'd to be much more for the Publick Good, they did not stick upon the Point of Proximity. I shall not meddle with the Kingdom of the *Northumbers*, which alone was originally Elective, as appears by *Matth. Westminster*; and wherein there happen'd so great Disorders and Confusions, that at last *William* of *Malmesbury* saith, *None could be perswaded to accept of the Kingdom*; and so it *Mat. West. p. 101. Bromton, p. 862. W. Malmf. l. i. c. 3.*

(a) A. G. 454. Magnates Brit. Regem Vortigernum penitus deserentes, unanimiter filium suum in Regem sublimaverunt. Mat. West. p. 83.

(b) Cum autem modis omnibus male tractaret eos, legesque antecessorum suorum propter commodum suum, vel depravaret, vel mutaret. Matth. West. A. D. 756. H. Huntingd. l. 4. p. 196.

(c) A. G. 758. Gens de Regno Merciorum, contra Regem suum Beornredum insurgens, pro eo quod Populum non æquis legibus, sed per Tyrannidem gubernaret, convenerant in unum omnes,

tam nobiles quam ignobiles, & Offa Duce ipsum à Regno expulerunt. Mat. West.

(d) Nam & ipse Brithricus & cæteri infra Inam Reges licet Natalium splendore gloriantes (quippe qui de Cerdicio originem traherent) non parum tamen à lineâ regiæ stirpis exorbitaverant. Will. Malmesb. de Gestis Reg. Angl. l. i. c. 2.

(e) Regnum per Inam novatum qui Cinegisli ex Fratre Cuthbaldo pronepos magis pro insitiva virtutis industria, quam successivæ sobolis prosapia, in Principatum ascitur. Id. ib.

continu'd thirty three Years, till at last *Egbert* took it into his hands, and so it became a part of the *English* Monarchy, which was establish'd in him.

*Allegiance
not always
due to the
next Heir.*

But if by the Fundamental Constitution, Allegiance were indispensably due to the next Rightful Heir in this Monarchy, how came *Athelstan* to be crown'd, *magna consensu Optimatum*, saith *Malmesbury*, when he was not the rightful Heir? Some say (from an old Monk in *Malmesbury*) That his Father left him the Crown by his Testament; (which doth not clear the Difficulty as to the inviolable Right of Succession by the Constitution). But this cannot be true, for his elder Brother *Elwardus* died after his Father; and none pretend that his Father disinherited him: And if *Athelstan* were lawful Heir, what made him to dispatch his Brother *Edwin* out of the way, and to build two Monasteries for expiation of that Guilt? How came *Alfred* to oppose his Election as being Illegitimate, as *Malmesbury* confesses? But *Mat. Westminster* gives the Reason, The Times were then difficult, and *Edward's* other Sons were too young to manage the Government, and therefore they set up *Athelstan*, as one fit for Business.

*Mat. West.
A.D. 934.
A.D. 939.*

*Mat. West.
A. 946.
Bromton,
p. 862.
Flor. Wigorn.
A. 949.*

How came *Edred* to succeed *Edmond*, and not his Sons *Edwin* and *Edgar*? *Matth. Westminster* and *Bromton* give the same Reason; they were incapable by reason of their Age, *Repugnante illegitimâ ætate, Patri succedere non valebant*. *Florence of Worcester* saith, The Northumbers swore Allegiance to *Edred*; and he saith He was next Heir, and yet there were two Sons of *Edmond* before him; for he confesses, that they were the Sons of *Edmond* and *Algiwa* his Queen.

A. 957.

After the death of *Edred*, the eldest Son of *Edmond* succeeded; but being found under a moral Incapacity (for in *Florentius* his words, and *Mat. Westminster*, *In commisso Regimine insipienter egit*) he was set aside as to all the Government beyond *Thames*, and *Edgar* put into it, and not long after into the whole Kingdom by general Consent.

A. 975.

How came a Dispute to happen about the Election after the death of *Edgar*, between his eldest Son *Edward* and *Etheldred* his youngest? I lay no force on his Mother's Endeavours to advance him; but if there had been such an unalterable Right of Succession, there had not been any colour or pretence for it, especially since it is said that his Father declar'd his Mind, That the elder should succeed. But saith *Florentius Wigorn*. There was a great Contention among the great Men about the Choice of the King: How could there be any Dispute, if they knew the Constitution of the Kingdom to be, That the next Heir must inherit the Crown, and that those are perjur'd who transfer their Allegiance?

*Florent.
Wigorn.
A.D. 1016.*

After the death of *Ethelred*, the Nobility and People were divided; some chusing *Canutus* the Dane and swearing Allegiance to him; others to *Edmund* the Son of *Ethelred*.

W. Malm.

The former pleaded for themselves, That *Ethelred* had broken his Faith with them, and therefore they deserted him, so as he was fain to fly into Normandy; and that *Edmond* was not his legitimate Son.

Mat. West.

Matth. Westminster saith, That the greatest part of the Nation, Clergy as well as Laity, did swear Allegiance to *Canutus*, without any discharge from *Ethelred* while living, or his Son after him.

A. 1055.

After the death of *Canutus*, a new Difference arose about the Succession; some were for *Harold* his supposed Son by *Algiwa*, others for *Hardecnute*, his Son by *Emma*. If the lineal Succession were a part of our Constitution, how came such perpetual Disputes to be concerning it? For if it had been own'd as a Fundamental Law, the Right of Succession must have been clear beyond dispute. But Reason of State and the Publick Interest still over-rul'd this Matter, and so *Ethelred's* Sons by *Emma*, who were the true Heirs by Legal Succession, were set aside, and *Harold* being upon the Place, and so best able to manage the Affairs of the Kingdom, carry'd it.

*W. Malm.
l. 2. p. 40.*

Hardecnute being dead, how came the banish'd Sons of *Edmund Ironside*, if he were lawful Heir, not to be sent for to succeed? If *Edmund* had no good Title, how was the Right of Succession then preserv'd? How could Allegiance on these Principles be sworn to him? If he had a good Title, how could the Oaths be taken to *Edward* the Confessor, when the Heirs of *Edmond Ironside* were living? I perceive some, to salve the Succession, make the Mother of *Edmond* to have been *Ethelred's* first Wife, and call her *Elgiwa* Duke *Thored's* Daughter: but *William Malmesbury* saith, She was so obscure a Person, that she was not known; and that *Edmond*

mond Ironside made up what was wanting in the management of his Father, and the Quality of his Mother. And the same is said by *Matt. Westminster. Florentius Wigorn.* shews the reason of the mistake; for he saith, that *Emma Ethelred's* Queen was in the Saxon Language call'd *Algiva*, and so out of two Names they have made two Queens. *Bromton* leaves the matter in dispute, and saith, some affirm *The Mother of Edmond was betroth'd to King Ethelred, and was the Daughter of Count Egbert*: Others that she was a Stranger and a Concubine. Now if a Man's Conscience be strictly ty'd in such Oaths of Allegiance to the Right Heir in a lineal Succession, what satisfaction can he have as to the taking them, since he is then bound to satisfy himself in the strict Justice of a Title? For if *Edmond's* Mother was not married, he had no Title, and no Oath of Allegiance could be taken to him; and whether he was married or not, for all that we can perceive, there was a great doubt at that time, and so continu'd. And it is not easy to determine what is to be taken for Marriage in a Prince, unless the Law be the Rule. And if the Law determines the nature of Contracts in Princes, why not as well the Obligation of Subjects? For, if there be no Rule, it is not possible to satisfy Conscience in the Niceties of Titles; if there be a Rule, the general Consent of the People, join'd with the Common Good, seems to have been that which our Ancestors proceeded by.

Mat. West.
A. 1015.
Florent.
A. 102.
Append. 7.
ad vit. Alf.
Bromton
inter 10.
Script.
p. 877.

I do not hereby go about to set up the Power of the People over Kings, which is in effect to overthrow Monarchy; for then the whole Sovereignty lies in the People, and Kings are but their Servants: And so there is but one sort of Reasonable Government, viz. that of a Commonwealth. Whereas from the eldest times the Rights of Sovereignty have been plac'd in single Persons, before any popular Governments were known; and Monarchy hath been ever esteem'd a distinct and a reasonable Government, especially where it is limited by Laws, and those Laws made by the Consent of the People, i. e. by the three Estates of the Realm, which are together the true Representatives of the People.

Limited
Monarchy
a reasonable
Government.

I see no necessity of going about to undermine the Monarchy, that I may come at a resolution of the present Case; for I take ours to be a true Original Monarchy, especially after the Rights of the lesser Monarchs were swallow'd up or deliver'd into that of the *West-Saxon* Kings. And farther, I do not stick to affirm, that it was Hereditary, where the Right of Succession and the Publick Good did not interfere, i. e. where there was not a Natural or a Moral Incapacity: a Natural, as in the Sons of the elder *Edmond*, when *Edred* was made King before them; a Moral, as when *Edgar's* elder Brother was set aside for his ill Government, by one half of the Nation, and the other never disputed the matter with them; and when *Ethelred* was so far deserted, that he went into *Normandy*, and was recall'd upon promise of better Government. *Si ipse vel rectius gubernare, vel mitius eos tractare vellet*, are the words in *Florentius*; and to the same purpose *Matt. Westminster*, and *Bromton*, and *Malmsbury*: *H. Huntingdon* adds, that he promis'd *omnia Rege & Populo digna*, all things worthy of the King and People. These things I mention to shew, that altho this were a true and successive Monarchy in ordinary Course; yet where the Publick Good was by the Estates of the Realm judg'd to require it, they thought it no Perjury, or Breach of Faith, to transfer their Allegiance, altho it were without the Consent of the actual Governour, or the next lineal Heirs.

Florentin.
Wigor.
A.D. 1014.
H. Hunting.
l. 6. p. 207.

Having thus far clear'd this Point, as to the *Saxon* Constitution of our Government, I come to that of the *Norman*; and here I shall not go about to shew how broken the Succession was by Force and Faction, but what the Judgment of the Nation was, as to the transferring Allegiance.

Instances
since the
Conquest.

And the first Instance I shall bring, is in the Case of the Oath taken to *Maud* the Daughter of *Henry* the First, in the one and thirtieth Year of his Reign; and there is no question, but he design'd her to succeed him, *Legitimâ & perenni successione*, as *Malmsbury's* words are: but *Stephen* (who had before sworn Allegiance to her) watch'd his Opportunity, and by the help of a Party made by his Brother (the Bishop of *Winchester*) he was crown'd King; and altho at first, *Malmsbury* saith, but three Bishops, and very few Noblemen, join'd with him, yet he soon after saith, *That most of them went in to him*: And even *Robert* of *Gloucester*, King *Henry* the First's natural Son, took an Oath to him, but with the condition of preserving his Honour and Covenants. There are several things worthy our Observation in this Affair, with respect to Oaths of Allegiance.

Malmsb.
hist. Nov.
l. 1. p. 100.
105. 2.

(1) That those who excuse them from Perjury who had sworn Allegiance to *Maud* before, do it upon this account, because it is said by *Rad. de Diceto*, that

Allegiance
sworn to
Maud the
Hugh Empress.

Hugh Bigod swore, that King *Henry* the First on his Death-bed disinherited his Daughter, and made *Stephen* his Heir. Supposing the Story true, what is this to the Discharge of the Oath as to *Maud*? for the Oath was not made to *Henry* the First, but to his Daughter, and her Right was chiefly concern'd it. If this hold, an Oath of Allegiance may cease, without discharge from the Party to whom it is made. And so the Archbishop of *Canterbury*, and the Bishops of *Winchester* and *Salisbury*, as well as the Nobility, thought themselves at liberty to take a new Oath of Allegiance, without a Release from the Party concern'd in the former Oath.

(2) That upon the agreement between King *Stephen* and *H. 2. Maud* her self was set aside, and *Stephen* was to continue King for his Life, and *H. 2.* to succeed him. Now if Oaths of Allegiance must not be interpreted by the publick Good, here are insuperable Difficulties as to the Obligation of these Oaths. For the Allegiance was transfer'd from the right Heir to an Usurper, as *Stephen* must be own'd to have been by those who deny that Allegiance can be transfer'd from the right Heir. And they must continue Allegiance to the Usurper for his Life; which is repugnant to the Nature of our Constitution, if it be founded in a Lineal and Legal Succession. And again *Maud*, to whom they had sworn, is set aside, and the Reversion of the Crown is entail'd on her Son, altho she was living. *Fortescue*, in a Manuscript Discourse about the Title of the House of *Lancaster*, saith, this was done in Parliament, *Communi Consensu Procerum, & Communitatis Regni Angliæ*. *Rad. de Deceto*, A. D. 1153. *Diceto*, who liv'd nearer the time, saith no such thing; but *Fortescue* appeals not only to the *Chronicles*, but to the Proceedings of Parliament for it. And *Matt. Westm.* *Westminster* and *Paris* say, the Right of *Hen. 2.* was declar'd by King *Stephen* in A. 1153. *Conventu Episcoporum, & aliorum de Regno Optimatum*; which was the Description of a Parliament of that time, for as yet the Baronage represented the Nation. *Gervaf. A. D. 1153.* *Gervase* saith, the Great Men were summon'd to perfect the Agreement, by giving their Assent to it, and confirming it by their Oaths. *Fortescue* saith further, that *Hen. 2.* was crown'd King in the Life of his Mother, (who liv'd to the 13th of *Hen. 2.*) by the general Consent of the Kingdom. Which shews how far the publick Good was thought to be the Measure of the Obligation of these Oaths. For *Gul. Neuburgensis* saith, that the *Bonum Publicum* was the Foundation of this Agreement: And *Matt. Westm.* *Westminster*, That the King and the Lords did all swear to it, and a solemn Charter was made of it, and kept in a most secure Place. And thus the Oaths of Allegiance were continu'd to one that had no Right for his Life; and made to one who pretended to no Right, but after his Mother, who was set aside in this Agreement. So that here were three Oaths of Allegiance at once, that to *Maud* the Empress, that to King *Stephen*, and to *Hen. 2.* and yet the general Good of the Nation must give an equitable sense of these Oaths, or there must be Perjury on all sides. For those who had first sworn to *Maud*, could not transfer their Allegiance on any other account, either to *Stephen*, or *Hen. 2.* during her Life. For we never read that she was present at the Agreement, or resign'd her Right to the Crown.

The next Instance I shall produce, is in the Oaths that were taken during the Controversies between the Houses of *York* and *Lancaster*. Which was not so plain a Case as Men commonly imagin; and in truth, if the just legal Title be the only Rule of Conscience in this Case, it was hard to take the Oaths on either side. For as on the one side, a lineal Descent was pleaded from the Daughter of the Duke of *Clarence*, who was elder Brother to *John* Duke of *Lancaster*, from whom by Marriage the Duke of *York* claim'd his Title; so on the other side, it was objected, that there was no sufficient Evidence of the Legitimacy of *Philippa* Daughter to the Duke of *Clarence*; because, as *Fortescue* observes, the Duke of *Clarence* was abroad from before the time of her Conception till after her Birth, and that he never own'd her Mother after; that she never assum'd the Arms of the Duke as her Father, nor those descended from her, till the Duke of *York* pretended to the Crown; that *Edward 3.* made an Entail of the Crown upon his Heirs Male (of which I have seen a written Account as old as the time of *Hen. 6.* which not only affirms the Absence and Divorce of the Duke of *Clarence*, but that *Ed. 3.* seiz'd all his Lands into his Hands, and in Parliament soon after entail'd the Crown on his Heirs Male, and that his Daughters there present agreed to the same.) But besides they pleaded, that so long a Prescription as the House of *Lancaster* had of above threescore Years, was allow'd by the *Jus Gentium*, to purge the Defects of the first Title. These are things which deserv'd Consideration against such a mere

Oaths to
the Houses
of York
and Lan-
caster.

mere lineal Descent as the House of York insisted upon. And against the House of Lancaster, the Intrusion of Hen. 4. upon the Deposition of Rich. 2. is an invincible Objection to such as found Allegiance on the Right of Succession.

But what I lay the greatest weight upon, is the way of ending this difference in Parliament, which hath several remarkable things in it :

(1.) That the Duke of York, notwithstanding his Title, takes an Oath of Allegiance in Parliament to Hen. 6. during his Life, reserving to himself the Right of Succession after him. For he swears to do nothing to the Prejudice of his Reign or Dignity Royal, nor against his Life or Liberty; and that he would to the utmost of his Power withstand all attempts to the contrary. The same Oath was taken by his Sons Edward Earl of March (afterward Ed. 4.) and Edward Earl of Rutland. Was this a lawful Oath or not? To say it was unlawful, is to reflect on the Wisdom of the three Estates, who look'd on this as the best Expedient for the publick Good, as being the way to prevent the Effusion of Christian Blood. And it is not easy to prove such an Oath unlawful; as containing nothing unlawful, nor to the Prejudice of a third Person, when he who was chiefly concern'd voluntarily took it. If it were a lawful Oath, then an Oath of Allegiance on the account of Possession, is a lawful Oath. For the matter of Right is not mention'd in it, and Richard Duke of York did not renounce the opinion of his own Right hereby (whether true or false) but did bind up himself to do nothing to the prejudice of the Royal Dignity of Hen. 6. and yet he look'd on him as mere Possessor of it; therefore in his Judgment and the Parliament's, an Oath of Allegiance may lawfully be taken, on the account of the Possession of the Crown, altho Persons be not satisfy'd of the Right of it.

Rot. Parl.
39 H. 6.
n. 21.
How the
Difference
ended.

The words of his Agreement are remarkable to this purpose, as they are to be found in the Parliament Rolls. 'The said Title notwithstanding, and without Prejudice of the same, the said Richard Duke of York tenderly desiring the Weal, Rest and Prosperity of this Land, and to set apart all that might be trouble to the same; and considering the Possession of the said King Henry the sixth, and that he hath for his time been nam'd, taken and reputed King of England and France, and Lord of Ireland, is content, agreeth and consenteth, that he be had, reputed and taken King of England and of France, with the Royal Estate, Dignity and Preeminence belonging thereto, and Lord of Ireland, during his Life natural; and for that time the said Duke, without hurt or prejudice of his said Right and Title, shall take, worship and honour him for his Sovereign Lord. Here was certainly an Oath taken to a King, whom the Person taking it look'd on only as a King *de facto*, and not *de jure*: and yet this Oath was taken and allow'd, nay contriv'd in Parliament; and that for no less an end, than for the Weal, Rest, and Prosperity of the Land, *i. e.* for the publick Good.

N. 20.

It may be said, that the Case is different: for Richard Duke of York parted with his own Right; but we cannot with anothers, which we have sworn to preserve.

I answer, that he did not look on such an Oath as parting with his Right, but as a thing fitting to be done on the account of Possession for the publick Good. And so may others take such another Oath of Allegiance, wherein there is no Declaration as to Right, but the same things requir'd, which the Duke of York promis'd in his Oath to Hen. 6.

But Allegiance is not due but where there is a Right to claim it; and that cannot be, where there is no Right to the Crown.

I answer, That an Oath of Allegiance may be twofold: 1. Declarative of Right; and in that case none can be own'd to have Right, but he that hath it.

Declarative Right.

2. Submissive Allegiance; where no more is requir'd than is contain'd in the Duke of York's Oath, and yet he declar'd this was no Prejudice to his Right. But it may be said, he declar'd so much before he took the Oath, and so gave the Sense in which he took it.

Submissive Allegiance.

I answer, That

His putting in his Claim, and his Title being allow'd after the King in being, had been sufficient: but in our case there is no need of a Declaration, since the declaratory part is left out; which is a fuller Declaration of the sense of the Oath, than our Words can make.

But to proceed;

(2.) The first Objection the Parliament made to the Duke of York's Claim was, from the Oaths they had taken to Hen. 6. To which the Duke of York gave a large Answer, that Oaths must not bind against Truth and Justice. But this was to

Oaths to
York and
Lancaster
how recon-
ciled.

take

take it for granted, that he had the Truth and Justice of his side, whereas there was a long Possession of threescore Years against him. Surely Matters of Fact, which were necessary to the disproving his Title, were then so far out of Memory, that it was impossible to make clear Evidence about them; and others were not examin'd, as whether the Duke of *Clarence* were absent so long from his Wife abroad, when *Philippa* was born? Whether one *Sir James Audley* suffer'd about it? Whether he was divorc'd from her upon it? Whether *Ed. 3.* after the death of the Duke of *Clarence*, did entail the Crown on his Heirs Male? Whether upon the Deposition of *Rich. 2.* the Claim of Right on behalf of the Duke of *Clarence's* Heir, ought not to have been made? How far *Edmond Mortimer's* owning the Title of *Hen. 5.* and the Duke of *Cambridg's* Attainder did affect him? Whether he had not renounc'd his own Pretensions, by owning *Hen. 6.* to be his *Supreme and Sovereign Lord*, as he had often done in a most solemn manner, particularly in his Oath at the Altar of *St. Pauls*, which is to be seen in the *Book of Oaths*, pag. 146. and elsewhere. But at that time *Hen. 6.* was under the Power of the Duke of *York*; and that was a very unfit Time to clear a sinking Title.

But however, the Lords in Parliament were concern'd for their Oaths to *H. 6.* and propos'd the former Expedient, not only for the Publick Welfare, but in regard to their Oaths, notwithstanding that they allow'd the Duke's Title to be good: Their words are, 'It was concluded and agreed by all the said Lords, that since it was so, that the Title of the said Duke of *York* cannot be defeated, and in eschewing the great Inconvenience that might ensue, to take the Mein above-rehearsed, the Oaths that the said Lords had made unto the King's Highness at *Coventry* and other places saved.

From whence it is plain, that they look'd on their Oaths to *Hen. 6.* as consistent with owning the Right to be in the Duke of *York*; and that Possession was a sufficient Ground for continuing their Oaths.

(3.) In *1 E. 4.* where the Right and Title of the Duke of *York* is most amply set forth, yet there this Agreement *39 H. 6.* is recited, and the Proceedings against *H. 6.* are grounded upon his Breach of it. Which shews farther, that in those Parliaments which did assert the Right of Succession highest (among which this of *E. 4.* ought to be reckon'd) it was never disputed, whether those that had taken the Oaths to *H. 6.* were perjurd, for they look'd on the Possession of the Crown as a sufficient Ground for the Allegiance requir'd.

But it may be said, *That from hence we see that he was look'd on as having the best Title, who had the best Right by lineal Succession.* I answer, That we are not enquiring into Titles, but searching into the Reasons and Measures of Oaths of Allegiance; and whether those do require full Satisfaction about the best Title? Or supposing one unsatisfy'd about that, whether he may not yet be satisfy'd in taking such an Oath as the Duke of *York* and his Sons did?

But such Precedents prove nothing, unless they be agreeable to our Laws and Constitution. Yes, a great deal, while we are enquiring into our Legal Constitution, and we find such things allow'd in Parliaments; and not only so, but in such Parliaments which allow'd not the Title of the King to whom those Oaths were made.

But it may be said, *Our Laws own no King merely as in Possession, but the right Heir is the legal King whether in Possession or not.* Our Law does own a King in Possession, if *Treason may be committed against him*; and for this we have not only the Authority of *Sir E. C.* but of the *Year-Books*, *9 E. 4.* where it is deliver'd for Law at that time, and with a particular respect to *H. 6.* *Et home sera arraigne de Treason fait a dit Roy H.* and therefore *Sir E. C.* had good Authority for what he said; and that not in the Reign of a King *de facto*, but when a King thrust out another for want of Right, and deriv'd his whole Right from a lineal Succession. *Bagot's Case* goes farther than Grants and judicial Proceedings of a King *de facto*, for therein it is declar'd *Treason* to compass the death of a King *de facto*; and it is very absurd to imagine *Treason* against one whom the Law doth not own: for *Treason* is a high violation of the Law; and how can the Law be violated against one whom the Law doth not own? Besides, in *Bagot's Case* there is a distinction made between a mere Usurper, and one on whom the Crown is settled by Parliament; and so *H. 6.* is deny'd to be a mere Usurper. *Et six le dit Roy H. de fait Merement, come Usurper, Car le Corone fait taille a luy per Parliament.* So that by our Constitution a great Difference is to be shew'd to the Judgment of the three Estates in Matters that concern the Right of the Crown: Or else, an Entail made by them could make no difference,

rence, but the whole Resolution must be into the lineal Descent. And thus I look on the Statute, 11 H. 7. as agreeable to our Constitution; for if it be Treason to compass the death of a King *de facto*, there is great reason there should be Indemnity for those who act for him.

But what doth this signify to the Consciences of Men? Very much, if they are to be satisfy'd by our Constitution. I grant, mere Indemnity doth not clear a Man's Mind; but its agreeableness to former Proceedings and Judgments, shews how far our Constitution allows us to go, and that there is no Argument from thence which can hinder the satisfaction of Conscience so far. Conscience how satisfy'd.

But suppose a King *de jure* be in possession of this Act, and another comes and dispossesses him, and so is King *de facto*; Doth this Law indemnify those who fight against the King *de jure* for the King *de facto*?

Whosoever is in actual and quiet possession of the Crown by consent of Parliament, hath the Right to challenge the Benefits of this Act for those who serve him. But I do not say that this Act gives any man Right to oppose a rightful King; but it only provides for the Indemnity of those who assist the present Possessor, altho another had the Right by Descent: For after the Duke of York's challenging the Crown by Right of Succession against the Possessor, there were two Parties in the Nation, the one was for the Right of Succession, and the other for the Right of Possession by a National Consent. And the Disputes between those two continu'd as long as the Differences between the Houses of York and Lancaster lasted. When Hen. 7. was settled in the Throne, without regard to the Right of Succession, altho there was a general Submission, yet there was still a great Dissatisfaction in the York Party; which occasion'd all the Disturbances of Henry the 7th's Reign, from setting up an Heir of the House of York; (and Sir William Stanley was gain'd to that Party, which cost him his Life). And they went so far as to conclude it Treason to stand by the Possessor against the next lineal Heir: Which I take to have been the true occasion of the Statute 11 H. 7. which doth certainly indemnify those who adhere to the Possessor, altho another may claim a better Right; and thereby declares a Possessory Right to be a sufficient Ground of Allegiance as far as that Act goes. Rights of a King in possession.

There are three sorts of Persons may be said to have possession of the Crown, an Usurper, a King *de jure*, and a King *de facto*; and because the distinction between these doth not seem to be well understood, I shall briefly explain it. Three sorts of Possessors of a Crown.

An Usurper is one who comes in by Force, and continues by Force. An Usurper.

A King *de jure* is one who comes in by lineal Descent as next Heir, and whose Right is own'd and recogniz'd by the Estates of the Realm. K. de jure.

A King *de facto* is one who comes in by Consent of the Nation, but not by virtue of an immediate hereditary Right; but to such a one, being own'd and receiv'd by the Estates of the Realm, the Law of England, as far as I can see, requires an Allegiance: Or else the whole Nation was perjur'd in most of the Reigns from the Conquest to Hen. 8. for the two Williams, six at least of the seven Henries, King Stephen, and King John were all Kings *de facto*, for some time at least, for they came not in as next Heirs in a lineal Descent. But still Oaths of Allegiance were taken to them, and no such Scruples appear to have been made all that time, nor any Charge of Perjury on those who did what our Law and Constitution requir'd. Was the Nation perjur'd in the Time of Hen. 7. who, as all know, had no Pretence of an hereditary Right? Yet being receiv'd and crown'd, the Oaths of Allegiance were taken to him before he was married to the Daughter of Ed. 4. For he was crown'd 30 Octob. 1485. had the Crown entail'd in Parliament Novemb. 7. and was married Jan. 18. But the first Parliament of Rich. 3. endeavour'd to make void the Title of the Children of Ed. 4. on pretence of a Precontract with the Earl of Shrewsbury's Daughter, and that of George Duke of Clarence by his Attainder, thereby to make Rich. 3. right Heir to the Crown; but lest these things should fail, to his Claim of Inheritance they join their own Election, and desire him to accept the Crown, as to him of Right belonging, as well by Inheritance as by lawful Election. It seems they would have made him a King *de jure* as well as *de facto*; but the excluding the Children of Ed. 4. never gave satisfaction, since the Lady Lucy her self disown'd it to the Mother of Ed. 4. And if such an Allegation would hold, the whole Succession both of York and Lancaster might be question'd; for both deriv'd from Hen. 3. whose Mother was believ'd at that time to have been precontracted at least to Hugh le Brun, before she was married to King John, and was married to him, whilst his former Wife was living. And if Queen Eleanor's Divorce from the King of France were not good (as it is hard to prove it so) what becomes of all the Line of Mar. West. A. 1200.

Hen. 2. who married her, after she had two Children by her former Husband? But if mens Consciences are tied to a strict legal and lineal Descent, they must be satisfy'd in all these Points.

But supposing the Right of the Children of *Ed. 4.* to have been never so good, what doth this make towards the justifying the Oaths of Allegiance which were made to *Hen. 7.* whom some will not allow to have any Claim by the House of *Lancaster*, since they say, the same Act which legitimated *John of Gaunt's* Children by *Kath. Swinford*, did exclude them from any Title to the Crown? Yet the Oaths of Allegiance were taken by the whole Nation in the Time of *Hen. 7.* and no dispute was then made about it; because it was then believ'd, that quiet Possession was a sufficient Ground for Allegiance.

It is objected, *That it cannot be agreeable to the Law of England to swear Allegiance to a King de facto, when the Duke of Northumberland suffer'd by the Law for adhering to a Queen de facto.*

King de
facto en-
larg'd upon.

A King *de facto* according to our Law (as is said) is one in quiet possession of the Crown by consent of Parliament, without hereditary Right; such as *Hen. 4.*, *5.*, *6.*, *7.* were all thought to be by those who made this Distinction: For, as far as I can find, the distinction of a King *de facto* and *de jure* was then started, when the House of *York* so much insisted on their hereditary Right, and so many of our Kings had govern'd the Kingdom by Consent without it. Therefore the Lawyers, to find a sufficient *Salvo* for the Kings of the House of *Lancaster*, fram'd this distinction of Kings *de facto* and *de jure*; but still they meant Kings *Regnant* as they call them, or in full possession of the Royal Dignity by a National Consent. (The Distinction had been better of a two-fold Right, *viz.* *Possessory* and *Hereditary*.) But this was far from being the Case of Queen *Jane*, who was set up by a particular Party against the general Sense of the Nation, as soon appear'd; for the main Point her Title stood upon was this, Whether the King by his Grant could dispose of the Crown against an Act of Parliament which settled the Succession? And that this was the true Point, appears evidently by Judg *Mountague's* Papers, who was employ'd against his Will, in drawing up the Grant. So that the Duke of *Northumberland's* Case doth by no means reach the Point of a King *de facto*.

Q. Jane's
Case.

6th part of
the Homily
against wil-
ful Rebel-
lion.

K. John's
Case.

Mat. Paris
f. 280.
M. Westm.
A. 1216.
Mat. Paris.
A. 1199.

Mat. Paris
A. 1216.
f. 281.

The Barons
call in
Lewis of
France.

But it is further urg'd from our *Homilies*, *That our Church therein condemns those English who did swear Fidelity to the Dauphin of France, breaking their Oath of Fidelity to their natural Lord the King of England.*

To which I answer,

(1.) That King *John* was only a King *de facto* himself, if a legal Succession makes a King *de jure*. For (1.) his eldest Brother's Son *Arthur* was then living, as all confess. (2.) He was convicted of Treason against his Brother *Rich. 1.* and the Sentence pronounc'd against him by *Hugo de Pudsey* Bishop of *Durham*, as the King of *France* pleaded to the Pope's Legat who came to solicit for him. (3.) *Hubert* Archbishop of *Canterbury* declar'd at his Coronation, that he came not in by hereditary Right, but by Election; and he accepted of it so. (4.) What Right he had after the death of his Nephew, he gave up by the Resignation of his Crown to the Pope. He could have no hereditary Right while *Arthur's* Sister liv'd, who surviv'd him, and was kept in the Castle at *Bristol*. But supposing it, I do not understand how he that gave up his Right of Dominion to the Pope, could still retain it? And if he was feudatary to the same, he could not challenge Allegiance as due to him, but to the Pope as Lord Paramount. And it was pleaded against him, 'That altho he could not dispose of his Crown without Consent of his Barons, yet he might demise it. And upon his Resignation he ceased to be King, and so the Throne was vacant. And by that means there was a devolution of Right to the BARONS to fill up the Vacancy; who made choice of *LEWIS* by the Right of his Wife, who was Heir to King *John*. If after all this, an Oath of Allegiance to him was lawful, then, I say, an Oath to a King *de facto* is, for King *John* was no more.

(2.) As to the Barons calling in *Lewis*, and forsaking King *John*, it is necessary to observe on what reason it is that our *Homilies* condemn it. For the whole design of that *Homily* is to shew the Pope's *Usurpations* over Princes, and their stirring up Subjects to rebellion against them, by discharging them from their Oaths; and for those the Instance of King *John* is produc'd. As appears by the words just before: 'Now had English-men at that time known their Duty to their Prince set forth in God's Word, would a great many Nobles, and other English-men natural Subjects, for this foreign and unnatural Usurper his vain Curse of the King, and for his feign'd discharging them of their Oath and Fidelity to their natural Lord, upon so slender,

der, or no Ground at all, have rebell'd against their Sovereign Lord the King?
 Would English Subjects have taken part against the King of England, and against English-men, with the French King and French-men, being incens'd against this Realm by the Bishop of Rome?

(3.) This doth not concern the present Case: For Men may condemn those Englishmen who sent for Lewis, and yet may lawfully take the present Oaths; by which Men are not bound to justify such Proceedings, but to promise Faith and Allegiance to such as are in actual Possession of the Throne: Which the Oaths taken to King John will justify.

Thus I have consider'd the greatest Difficulties I have yet met with about taking the Oaths, and have not dissembled the strength of any of them.

There is only one thing remains, and that is the Answer given to the Case of Tiberius, who was an Usurper; and yet our Saviour said, Give unto Cesar the things that are Cesar's. The Case of Tiberius.

The Answer is, That altho it were a forcible Usurpation in Julius Cesar, yet before that time the Matter was accorded between the Senate and the Emperors, and they reign'd unquestion'd without any competition from the Senate.

So that it was not lawful to swear Allegiance to Julius Cesar, who had the full Possession of the Power, but it was to Tiberius: And why so? Where was the Right of Government in the Time of Julius Cesar? In the Senate and People: And so it continu'd all Julius Cesar's Time. But how came the Senate and People to lose their Right in the Time of Tiberius?

(1.) Had they given it up by any solemn Act of theirs, as many say they did by the Lex Regia, which Justinian confidently affirms? Then all the Right which the Emperor had, was by Devolution from the People; and so they acted by virtue of that Power which the People gave them; (Populus comprehends both Senate and Community). And then the Emperors had their Rights of Sovereignty from the People, and not from God. For here was no other Act but that of the People giving up their Right: And then the Case of Obedience to the Roman Emperors will be found very different from that of the Northern Kingdoms, where the People never gave up their Rights in such a manner. But in Cases of Difficulty concerning Succession, the three Estates did look on themselves as particularly concern'd; as might be easily prov'd, if it were needful, in all the Northern Kingdoms. Lex Regia.

(2.) But suppose they did not formally give up their Right, but were partly wheedled and partly forced out of it: Doth this give a good Title? Suppose Augustus had by his Acts procur'd the Consent of the People, as to his own Government; What was this to Tiberius? Did they give him a Power to make whom he pleas'd his Successor? Something may be said from Dion and Strabo as to the former, but there is no pretence as to the latter: For it was a mere Arbitrary Act in Augustus to nominate Tiberius; and all the Title he had at first was from the Pretorian Band and Legions: Afterwards the Consuls, and Senate, and Soldiers, and People did swear Allegiance to him, as the Historians tell us. Now here I desire to know, whether Tiberius were any more than Emperor de facto, when they did thus swear to him? For all the Right he had was from their voluntary Submission to him at Rome. Augustus his Title. Tacit. l. 1.

(3.) As to the Roman Provinces, Tacitus saith, 'They were content with the present Change of Government, because they suffer'd by the Factions and Avarice of the great Men; which made them weary of the Government by the Senate and People. But this only shews they were willing to change their Masters, hoping they might mend their Condition, but signifies little to the matter of Right. Since after they were made Provinces, they own'd their Subjection to the Roman Government, by paying Tribute, and receiving Magistrates from it, however that Government was managed, whether by Senate or People, or by one who had the Imperial Power, whatever Name he were call'd by. But as to the Province of Judea in particular, there are several Conditions of it to be consider'd. Tacit. ib. In the Roman Provinces.

(1.) While it was tributary to the Kings of Persia and Syria. Jaddus the High Priest told Alexander, that they had taken an Oath of Fidelity to Darius, and therefore could not bear Arms against him while he liv'd. But was Darius King de jure or de facto over the Jews? He was not King over them by a lineal Succession from their own Princes; nor by the Fundamental Constitution of their Government, which own'd no legal King that was not of their Brethren: I do not say they were not to submit to, but not to chuse any other. But what Right had Darius over the Jews, any Joseph. 1. 11. c. 8. Deut. 17. 15.

Neh. 8.9. more than succeeding in the *Persian* Monarchy gave a Right to the *Chaldean* Conquests? I grant, the Jews did act under the *Persian* Monarchs, as *Nehemiah* was Governor under *Artaxerxes*; and that they did swear to them appears by *Jaddus*. But the Question is, on what Right that Oath was founded? and whether upon *Alexander's* Conquest they could not as well take a new Oath to him? For why should not present actual Dominion give as much Right, as succeeding into another's Right of Dominion, which was at first gain'd by Conquest? If Possession gives Right in one Case, why not in the other? since there is more reason for Allegiance where there is a Power of Protection than where there is none. And so we find *Jaddus* and the Jews did submit to *Alexander* afterwards, and some of them went into his Army, altho *Darius* was still living: which shews, that as they were not forward to break their Allegiance sworn to *Darius*; so they were not obstinate in opposing *Alexander*, but yielded to the over-ruling Hand of Providence.

Joseph. 12. c. 15. (2.) When the Jews had their Liberty granted them by the Kings of *Syria*. For *Antiochus Eupator* made Peace with them, by which they were to have the Liberty of their own Laws; and altho he soon brake his Agreement with them, yet the *Lacedæmonians* and *Romans* own'd them as a Free People, and treated with them as such. 1 Maccab. 14. 16, 40. And *Simon* pleaded to *Athenobius* in this War: 'We have neither taken other mens Land, nor holden that which appertaineth to others; but the Inheritance of our Fathers, which our Enemies had wrongfully in possession a certain time. Wherefore we having opportunity, hold the Inheritance of our Fathers. Which plainly shews, that they look'd on those who rul'd over them as unjust Possessors, at that time when they were so far under them, as to swear Allegiance to them. After this *Antiochus Pius* did grant them their Liberty upon Composition; which they enjoy'd as their Neighbours did, and suffer'd not as Slaves to the Kings of *Syria*, but as sometimes oppress'd by them. 15. 33, 34.

(3.) When they were reduc'd into the form of a *Roman* Province, which was done by *Pompey*. And from that time they were in subjection to the *Roman* State, being only permitted to enjoy the Liberty of their Religion.

But I shall take notice only of the Case of the Jews Subjection to the *Roman* Emperor in our Saviour's Time. *Suetonius* takes notice of 'the strange Impudence of *Tiberius*, in seeming so long to decline the accepting the Sovereignty, when from the very first he had assum'd the Sovereign Power, without asking the leave either of Senate or People. (a) *Tacitus* saith, 'That he took upon him the Government immediately upon the death of *Augustus*, and did exercise the Imperial Power every where; only when he was in the Senate he seem'd to demur, for fear of *Germanicus* and his Legions.

(b) *Dio*, 'That he exercis'd all the parts of the Government, having secur'd the *Italian* Forces to himself. But he declin'd the Name, till he understood the Design of *Germanicus*.

So that here we have a plain Original Usurpation in *Tiberius*; there being no consent of Senate and People to his assuming the Sovereign Power. And yet *Tacitus* saith, *First the Consuls and great Officers, then the Senate and People did swear Allegiance to him*. Which was before he had their Consent; for he us'd his own Art afterwards, that he might seem to be chosen by them, and not to come to his Power by the Force of Arms, or the Intrigues of his Mother. But what appearance of Consent soever afterwards he gain'd from the Senate, it was extorted from them by Force or Fraud, as is evident from the same Historians. But what Right can such a Consent give? And he took away the remainder of the Peoples Liberties in their *Comitia*, and never ask'd their Consent.

What then was the Right of *Tiberius* to the Government founded upon? *Augustus* had several repeated Acts, whereby they continu'd his Government from time to time, and thereby shew'd their Consent, as *Dion* and *Strabo* affirm, *That the whole Government was committed to him from the Senate and People*. But what is there like this in the Case of *Tiberius*? He was *Augustus* his Wife's Son, and he made him his

(a) Principatum, quamvis neque occupare confestim, neque agere dubitasset, & statione militum, hoc est, vi & specie dominationis assumpta, diu tamen recusavit impudentissimo animo. *Sueton. c. 24.*

(b) Sed defuncto Augusto, signum pratoris co-

hortibus, ut Imperator dederat, Excubie, Arma, cætera Aulæ; Miles in forum, miles in curiam comitabat; literas ad Exercitus, tanquam adepto Principatu, misit; nusquam cunctabundus nisi cum in Senatu loqueretur. *Tacit. l. 1. Dio. l. 57.*

Heir by his Testament: And what was that to the Roman State? Was not *Agrippa Posthumus*, then living, much nearer to *Augustus*, who was his own Grandchild; and by the Story in *Tacitus* of *Fabius Maximus*, seemed design'd by him to succeed him? but upon the discovery of it, first *Augustus*, and then *Agrippa* was sent out of the World to make way for *Tiberius*, who had before-hand engag'd the *Italian* Legions. So that he trusted to no Testamentary Right, as appears by all his Collusions with the Senate, which there had been no place for if he had assum'd the Government by virtue of *Augustus* his Testament or Adoption.

Here we have then a plain Instance of one who was in the possession of Power without colour of Right, and yet Oaths of Allegiance were taken to him both by the Senate and People. And when these Oaths were taken, there was no adjusting the Matter between him and the Senate; for he had newly assumed the Government by Force when they took these Oaths. Here was no unquestion'd Authority from the Senate (whatever *Vell. Paterculus* pretends) but when he had gotten the Power into his Hands, he requir'd them to own it.

Augustus was so wise, as when they offer'd him their Oaths, he refus'd them for this Reason: 'He consider'd well, saith *Dio*, that if they gave their free Consent, Dio l. 54.
' they would do what they promis'd without swearing; and if they did not, all
' the Oaths in the World would not make them. But *Tiberius* was of another mind, and he requir'd their Oaths in the first place; and it is not improbable that the same were requir'd in several Provinces.

When our Saviour appear'd in *Judea*, *Tiberius* was in possession of this Power over the *Roman* Empire: and because the Jews were more scrupulous than other People, on account of their Fundamental Laws, as to the owning any usurp'd Jurisdiction over them; some among them put the Question to him about paying Tribute to *Cesar*, i. e. about owning any Act of Subjection to an usurped Power. But there were plausible Arguments on both sides; one was from the strictness of their Laws, the other was from the Benefit they receiv'd from the *Roman* Protection. The former seem'd to have more of Conscience, and the latter of human Prudence. Our Saviour takes a wise Method to answer the Doubt; he asks for the current Tribute-Mony, and finding it had *Cesar's* Superscription, saith, *Give to Cesar the things that are Cesar's*. They might have reply'd, they are his *de facto*, but not *de jure*. Why did not our Saviour answer this Difficulty, but leave them to collect their Duty from the use of *Cesar's* Coin among them? Might not one that had no Right, have the Power of coining Mony, and dispersing it, so that it should be in common use? And was not *Tiberius* such an one? What then doth he mean by this Answer? Either we must say, that he declines the main Question, or that he resolv'd it to be lawful, upon general Reasons, to encourage Acts of Subjection to such a Power, which we may not be satisfy'd is according to our Laws. For so it is plain the *Roman* Power was not agreeable to the Jewish Constitution; and altho that were from God, yet our Saviour, who gives the best Directions for Conscience, would by no means have Men to be peevish or obstinate in such Matters.

But paying of Tribute is quite another thing from Oaths of Allegiance. It is so as to the manner of testifying our Subjection; but the main Question is, Whether any Act of Subjection be lawful or not? If it be lawful to testify it one way, why not another? If in paying Tribute, why not in solemn promising to pay it? If in promising, why not in swearing, i. e. in calling God to witness that I do it? Thus far then we may go; we may swear to pay Tribute: But on what account? Is it not as a Token of Allegiance, i. e. of a Duty owing on the account of Protection? Then we have gain'd one Step farther, viz. That we may swear to perform some parts of Allegiance. But why then may we not do so as to all that such an Oath implies? if it respects no more than the Duty which we owe with respect to the Publick. And that is certainly the meaning of an Oath, when all Declarations of Right are left out, and only those of Duty express'd, as it is in our present Case.

As to the dreadful Charge of *Perjury* and *Apostacy*, which some, of much greater Heat than Judgment, have made use of against those who hold it lawful to take the Oaths; if what I have said be true, it is little less than ridiculous: And it would have had more appearance of Reason, if the Pharisees had urg'd it against our Saviour's Resolution of the Case about *Tribute-Mony*.

For,

For had not God by his own Law settled the Government among them? And was it not a Fundamental Article of that Law, that none should rule over them but one of their Brethren? Was the *Roman* Emperor, or *Pontius Pilate* such? Have not all the antient Zealots of the Law oppos'd any such Foreign Power? What can it be then less than *Perjury* and *Apostacy* to give any Countenance to such an open Violation of this Law, and to encourage Men to renounce it, when they find such Liberties allow'd by such a Teacher? But I forbear.

To conclude then; I have, at your earnest Desire, taken this Matter into serious Consideration, and have impartially weigh'd the most pressing Difficulties I have met with; I cannot promise to give you Satisfaction, but I have satisfy'd my self, and have endeavour'd to do the same for you. I am heartily sorry for any Breaches among us at this time, and it is easy to foresee who will be the Gainers by them. But I am glad to understand that the chiefest of those who scruple the Oaths, have declar'd themselves against the Attempts of such an *unseasonable Separation*, and I hope others will be so wise as to follow their Example.

I am, *SIR,*

Of Job. 15.

1689.

Yours.

A

*A Vindication of a Discourse concerning
the Unreasonableness of a New Separation on
account of the Oaths; from the Exceptions made
against it, in a Tract call'd, A brief Answer to a
late Discourse, &c.*

To the READER.

THE last Year there was publish'd a Discourse concerning the Unreasonableness of a New Separation on account of the present Oaths; in which the Learned Author endeavour'd to prevent that Schism which we were then threatned with, and hath since broke out amongst us; begun by some few that were dissatisfy'd about the Oaths, and upon that account quitted their Preferments, but improv'd by others (tho, thanks be to God, with little Success) who are disaffected to the present Government, and take all ways to render it uneasy. To the foresaid Book at last two Answers have been given; the one call'd, A brief Answer; the other, An Enquiry into the remarkable Instances of History, us'd by the Author of the Unreasonableness, &c. The former with much Virulence, and more Heat than Judgment, directly vindicates the New Separation: in the examination of which I have concern'd my self; and no further with the second, than the Reasons there insinuated and touch'd upon fall in with the former. As for what concerns the Enquiry into the Instances, and their Vindication against the Cavils of that Pretender to English History (for so I call him, because I find him to be a down-right Plagiary from Dr. Brady's Writings) I shall leave it to the Author, who himself in a short time will give the World an Account of that Matter. 1690.

A Vindication, &c.

THE Author of the Brief Answer, toward the close of his Paper, thus professeth of himself: For many Reasons I am unwilling to judg severely of my Brethren who have sworn; nor hath any Man been more forbearing.

If this Champion of the Cause he appears in had entred the Lists, and begun his Pamphlet with such a Declaration, there might have been some favourable Construction put upon it; tho in the process of his Discourse he had been transported beyond his first Intention, by a Zeal for his own Cause on one hand, and the Force of his Adversary's Arguments on the other: But to conclude with an *I am unwilling to judg severely*, after he had spar'd neither the Order he professeth himself to be of, nor his Adversary, whose Character, Dignity, and Learning, he sometimes is pleas'd to acknowledg, is a sort of refining, not subtil enough to take with the present Age, and a practice too gross to put upon an impartial and considerate Reader.

For as for those he once in an over-flowing fit of Charity calls *Brethren*, they are in his Dialect a pack of jolly Swearers, pag. 2. such as betray their Consciences for large Preferments, pag. 4. and he might have added, when his hand was in, that damn their Souls by the Perjury he charges them with, pag. 7.

As for his Adversary, He is one, according to the Character this Author frames for him, that is *old excellent at mustering up the ill Precedents*, p. 6. *That hath despised all sorts of Persons, as ignorant and silly in respect of himself*, p. 11. *A Man who lays aside all his Divinity for a little bad Law, and worse History*, p. 15. And to clinch the whole, thus sets him off; *A learned Doctor, nay (God be merciful to us!) a Bishop so stild, of our Church*. This, in his Language, is no severe Judgment; and after all (if you will believe him) *no man hath been more forbearing than himself*.

So much shall serve for a Proof of his Candour and Sincerity: let us now try how this huffing *Philistine*, who thus struts over his Adversary, behaves himself in close fighting.

The whole of what he saith, may be reduc'd to these Three Heads.

I. Church Communion and Schism.

II. Publick Good.

III. Obedience to Authority.

SECT. I. Of Church-Communion and Schism.

The Author of the *Discourse concerning the Unreasonableness*, &c. professeth, That he was not a little surprised,

‘ 1. That these new Separatists, that express’d so great a sense of Schism in others, should be so ready to fall into it themselves. 2. That they do it upon the account of Scruples, when the difference is only about the Resolution of a Case of Conscience, wherein Wise and Good Men may easily differ.

To the first, the Author of the brief Answer replies, *They do not fall; but are forc’d into it*: Which I shall consider in its due place, when he undertakes to prove it.

Case of an Oath stat-ed.

To the second, he gives a spiteful return: *But is then a Case of Conscience really so trivial a thing?* And after he hath gravely prov’d the contrary for a Column together, concludes with a special piece of Admonition to his Adversary; *Therefore, whatsoever our Author may think, I shall desire him henceforward to speak more reverently of a Case of Conscience, &c.*

But here this Author has overrun the Point; for the word *Only* is not (as he perversly will have it) as if a Case of Conscience was not a matter of Consequence, but that the taking or not taking the Oaths is only a Case of Conscience, not Matter of Doctrine. For the Dispute is not, whether an Oath be lawful or not? but, whether this present Oath be so? Which being a matter of a Civil nature, must depend upon the knowledg of the Constitution and Laws of this Realm for its Resolution; which *Wise and Good Men may easily differ in*, as the Author of the Discourse observes: and so there can be no Reason for those that scruple the Oath, to separate from the Communion of those that take it.

This premis’d, that Learned Author seasonably prevents and removes the Pleas that may be made for such a Separation.

As,

‘ 1. When any thing Unlawful is made a Condition of Communion.

‘ 2. That it’s unlawful to join with those that have taken the Oaths; and so have done, and continue to do and defend what they, that refuse Communion, account unlawful.

As to the first, the Discourse shews, that the Terms of our Communion are not alter’d; and that taking the Oaths is made no Condition of Communion with us.

As to the second, It observes, that this is the *Scruple about mix’d Communion, which hath been so long exploded among us*.

The Case of mix’d Communion.

Upon the first, our Author coldly replies, ‘ I could have told him forty things which they are not; and if he should be out in that one he mentions, it would be very unlucky; and that he is so, I shall endeavor in its proper place to prove. But in the mean time, if amongst the forty things the Oaths are not, they shall not be found to be the Condition of Communion, they can be no reason for breaking off from that Communion. And I grant, he may sooner tell of forty things the Oaths are not, than prove that they are made the Conditions of Communion; or that they may separate from the Church for such things as are not made Conditions of Communion with it.

As to the second, *The Case of mix’d Communion*, our Author is very careful to pass it over in silence: and instead of that, borrows a sorry Invective from some of his

his Friends of the Church of Rome, I could tell him of a Man, &c. and in the Answer to their Books, he will find the Reply. But he then takes a step back to make a Reflection upon what he thinks may better suite his purpose: For his Adversary having put a Case, 'Suppose those who take the Oaths to blame; if they act according to their Consciences therein, what ground is there for a Separation from them for so doing, unless it be lawful to separate from all such who follow the Dictates of an erroneous Conscience? and so there will be no end of Separation, &c. Our Author smartly returns upon him: 'At this rate there will be no end of Trifling and Sophistry; for if I am bound to separate from some erroneous Consciences, why must it needs be lawful to separate from all? &c. And here, according to his wont when he has none to oppose him, he states and argues the Point out and out.

But this is another of his Blunders. The plain Case is this: His Adversary having just before shew'd the taking of the Oaths to be no Condition of Communion, adds, *And if they are not, what Colour can there be for breaking Communion on the account of the Oaths?* And then follows, *Suppose they are to blame, &c.* That is, If the Oaths are not made a Condition of Communion, what imaginable Cause can there be assign'd for a Separation, unless it be because *they are to blame*, by acting according to an erroneous Conscience? and then this will be endless.

These general Reflections past, the Author of *the Unreasonableness*, &c. takes the main Point into consideration; viz. 'Whether there be any reason for those Scruples about the Oaths? For if there be not, it will be granted, that there can be no Obligation for a Separation on the account of them.

But it seems that Author was under a great mistake in his taking it for granted; for our Author stands up in opposition to it, and saith, 'He hath not fairly and truly stated the Case: For the Question is not nakedly and simply, whether the Oaths may or may not be lawfully taken? but, Whether Oaths impos'd under such unjust and merciless Penalties, and attended with such fatal Consequences, will not warrant the Non-Swearers in a Separation from such as do?

But this is another of his mistakes; for nothing can be more plain than that if there be no reason for the Scruples about the Oaths, there can be no reason for their sake to separate from those that take them: And therefore that Author took the most proper Course that could be, to prove the Unlawfulness of the present Separation, from the Lawfulness of taking them. For if the Oaths are Lawful, the Penalties, how unjust and rigorous soever, cannot make them Unlawful: and the Consequences cannot be fatal, if those that are now Non-Swearers, are convinc'd of the lawfulness of the Oaths, and so take them.

This brings me to consider his Arguments in justification of the present Separation; and what he hath said confusedly, I think may be commodiously rank'd under these Three Heads.

1. That the Penalties to be inflicted upon them, *want nothing of being a Condition of Communion to them*, quatenus Ministers, p. 3, 4.
 2. That their Authority is from Christ, and so *no Secular Power can Unbishop and Unpriest*, or disable them, p. 4, 5.
 3. That they are bound to obey their Bishops and Metropolitan, p. 5, 6.
- Arg. 1.* The Oaths being impos'd under such unjust and merciless Penalties, and attended with such fatal Consequences, will warrant Separation; and *want nothing of being made a Condition of Communion, &c.*

Now to speak in his way, *There may be forty things* we know, which may have the same fatal Consequence; for so it would be if the Clergy should not subscribe to the Service-Book and Articles, if they should not declare their Assent and Consent to all and every thing contain'd in the Book of Common Prayer. And so it would have been in former Kings Reigns, if the Oaths of Allegiance and Supremacy had not been taken. So that there always was, upon this Author's Argument, a sufficient warrant for Non-Swearers and Non-Conformers, to separate from those that did swear and did conform. For Papist and Dissenter will join with him in the Clamour, and each for themselves, as he for his own, will complain of unjust and merciless Penalties. Penalties there are, and they are great; but they are neither unjust or merciless, if the Government is not otherwise to be secur'd. But it doth not seem that they are unjust and merciless, by his way of representing them: for as if he did not believe it himself, he is fain to dress them up with all the *Sanbenito's* of an Inquisition, and the most extravagant Aggravations; for thus he opens the Case — 'After six Months warning, and frequent rabbling, if we take not the

‘ Oaths, we are silenc’d for six Months more ; so then (mark the Consequence)
 ‘ if the Oaths be not taken, all the Churches in *England* must be shut up. I know not
 ‘ any considerable difference betwixt this and a Popish Interdict ; neither matters it
 ‘ much, whether we lie at the Mercy of the Pope or a Parliament, whether God
 ‘ shall be worship’d in the Land or not, &c.

So that it seems by their not taking the Oaths, and their Deprivation upon it, we have neither *God* nor *Religion* among us, (in the Phrase of their new Liturgy) or in the Phrase us’d upon the like occasion by others, the Ark of God is remov’d, and the Glory departed from our *Israel*. But tho’ we pity other mens miseries, and could wish that our Brethren were as we are ; yet we bless God, that whereas by the Pope’s Interdict every Church was requir’d to be shut in the Land, (as it was for above six Years in the Reign of King *John*) all ours are open : And tho’ the Few that refuse the Oaths, and now remain depriv’d, are too many, yet that these neither bear the proportion of the 12000 to the 16000 of the Clergy that were outed in Queen *Mary*’s time, (as *M. Parker* computes it) nor of the 2000 to the 10000, as it’s said was in the Reign of King *Charles II.*

But to return to the Point, *What*, saith he, *doth this want of being made a condition of Communion to us, quatenus Ministers ?*

To this I answer,

Condition
of Commu-
nion re-
quir’d of
Ministers.

1. Suppose it to want nothing of being made a condition of Communion to them as Ministers, yet what is this to the People, of whom as Church-Members that is not requir’d ? This is a tender Point, and what he durst not touch upon : For grant that they had cause to separate, yet what would they do without a People ? And how would the People justify their Separation with the Ministers, upon whom no such Obligations were laid, as on the Ministers ? So that tho’ the Non-swearing Clergy might lawfully separate without Sin from our Communion, yet they must separate alone ; while none of the People could join with them in their Separation, without being guilty of a notorious Schism. For what reason would there have been for the Ministers Separation, if the Oaths had not been requir’d of them ? And what reason can there be then for the Peoples Non-Communion, who (as Church Members) stand as free from such Obligations, as if no such Revolution as the present had hapned, and no such Oaths had been at all imposed ?

2. Tho’ there be this Obligation laid upon Ministers, yet what is this Political Security requir’d of them, to their Communion with the Church ? May Persons, when griev’d by the Secular Power, and depriv’d of their Livelihoods by an Act of Parliament, revenge it upon the Church ? And will they interdict themselves its Communion, and break it in pieces, because they are thus injur’d, as they suppose ?

3. If they are not suffer’d to officiate as Ministers, yet they may still join in the same Communion as Laymen.

To this he answers,

If no Lay-Power can make or unmake a Bishop, Priest, or Deacon, then the Charge of our Ministry will still lie upon us, notwithstanding this depriving Act, and necessity will lie upon us to discharge it at our Peril.

Power to
Unbishop.

This leads me to his Second Argument ; but before I proceed to it, let him understand, that he proceeds upon a gross mistake, by confounding Deprivation with Degradation. For what Act is there that doth (in his Phrase, p. 5.) *Unbishop and Unpriest men* ? All that the Civil Power here pretends to, is to secure it self against the practices of dissatisfy’d Persons ; and to try who are such, it requires an Oath of Allegiance to be taken to their Majesties by all in Office, Ecclesiastical, Civil or Military : And in case of Refusal, by Deprivation to disable such, as far as they can, from endangering the publick Safety. But if the Clergy so depriv’d think fit to take the Oaths, they are in *statu quo*, without any new Consecration or Re-Ordination.

Having clear’d the Argument of this mistake, I shall now consider it.

‘ *Arg. 2.* A Clergyman’s Authority is from God ; and notwithstanding any Civil Act to the contrary, he is bound to take care of his Office, tho’ the most bitter Persecutions attend him for so doing. And therefore if they will warrant a Civil Act to disable us from doing our Duties, they must excuse us, if we have these dreadful apprehensions of the Account we have to give ; That we endeavour to do it as we can at our hazard, when we are not suffer’d to do it in Communion with them, p. 4.

The Sum of his Argument is, that seeing they receive their Authority from God, no Civil Power can disable them from the exercise of their Duty: And if it doth, they are bound to quit the Communion of the Church, where so disabl'd. The Force of which may be resolv'd into these three Questions.

Q. 1. Whether a Bishop duly consecrated, or a Minister duly ordain'd, may not be lawfully suspended and depriv'd from the Execution of his Office by the Secular Power, where there is sufficient reason for it? The Case of Unbishops stated.

2. Whether a refusal to give Security to the Secular Power for a peaceable Behaviour, and Obedience by Oath, may not be a sufficient reason?

3. Whether if so depriv'd, he is notwithstanding bound as a private Member to join in Communion with that Church whereof he was a Minister before, if nothing unlawful be requir'd of him in that Communion; and not to separate from it?

Q. 1. As to the first, Whether a Bishop duly consecrated, &c. our Author is not very clear; but if he is to be understood, he takes away all such Power from the Secular Authority. So p. 5. Our Metropolitan, and several other Bishops, are now actually by a secular Act depriv'd. But are they depriv'd by any Canons, or Canonical Censures of the Church? And he makes a suitable Distinction betwixt what he allows to the One, and not to the Other: viz. 'I shall easily grant, that the Secular Power hath often seiz'd their Estates, and imprison'd and banish'd their Persons: but still they were accounted Bishops of those Churches, and ceas'd not to discharge their Duty, &c. And p. 6. Our Author will think to tell us Tales, how Emperors have put out Bishops, &c. But it is one thing to act in pursuance of the Canons of the Church, and another thing to act against them, &c.

Now in answer to all this Ramble, I shall transcribe what the judicious Mason reply'd to two or three Objections of this kind. (*De Ministr. Angl. l. 3. c. 6.*)

Object. 'Is not the Deposition of a Bishop a Spiritual Censure? how therefore can it be ascrib'd to Secular Powers?

Ans. 'The Secular Powers depose a Bishop, not by way of Degradation, but Exclusion. They exclude him, not from his Orders, as if he had them not; but from the Gift, that he may not exercise it. And not from that neither absolutely, but after a sort; that he should not exercise his Office, as to their Subjects, nor in their Dominions. Which the holiest Princes in the best and Primitive Times have often exercised. Power of degrading.

Object. 'Can a Prince take away what he cannot give?

Ans. 'He cannot give, and so cannot take away the intrinick Power of the Word and Sacraments, proceeding from the Keys of Ordination: but the extrinick Power and Licence of exercising the Ministerial Office, receiv'd by Ordination, he can in his Dominions confer, and again take away, if the Case so requires.

I leave the rest about an Act of Parliament to this Author's perusal, at his leisure.

Q. 2. Whether it may not be lawful for the Secular Power to deprive Persons in Orders, for Crimes committed against the State; and particularly, upon refusal to give Security to the Government for their peaceable Behaviour, and Allegiance by Oath?

The General our Author expressly denies; and the particular Case he will not allow, because it's the reason why the General was maintain'd. So he saith, p. 5.

'Neither the Clergy nor People (in the Primitive Times) renounc'd their Bishops, unless they were guilty of such Crimes for which the Censures of the Church did depose them, or the Canons *ipso facto* deprive them. But where's the Heresy? Where are any of all these Crimes for which these our Bishops merit Deposition; or what just Censure of the Church hath pass'd upon them?

Now I answer with Mason, where was the Act of the Church in the Deposition of Abiathar? And where was the Ecclesiastical Crime he was charg'd with?

And as to the Oaths, I shall answer again in the words of the same celebrated Author: 'Not without Cause was there a Law made, that all Magistrates, whether Sacerdotal or Civil, should take an Oath, that the Queen [*Eliz.*] was Supreme Governor, and under the pain of Deposition: Which Oath since the Popish Bishops refus'd, they were depriv'd of their Honours and Churches; nor undeservedly, because they were presum'd to be for the Pope's Supremacy.

And the same parity of reason may hold for administering and taking the Oath of Allegiance to King William and Queen Mary, since they that refuse to take that, may be presum'd to think their Allegiance due to another.

And that Author adds further, when the said Oath was tendred to those Bishops

by illustrious Persons deputed thereunto, and they would not be persuaded to take it, *Episcopatus suis tandem aliquando juxta legem Parliamentariam sunt abdicati*; which I leave to our Author to English.

I think this Case is at an end.

Question about law-ful Deprivation.

Q. 3. Whether if a Person be lawfully depriv'd of the exercise of his Ministry, he is notwithstanding bound, as a private Member, to communicate in that Church, &c.

This our Author denies, for he would have it, that they are bound to continue in the exercise of their Office, to do it *as they can, when not suffer'd to do it in Communion with them.* Not suffer'd, he means without taking the Oaths.

The Sum is, that if they are not permitted to exercise their Ministerial Function, they think themselves oblig'd to set up Conventicles, and maintain a separate Communion.

Now this may make two Questions.

Whether Ordination obliges such an one to the actual exercise of his Office, when forbid by the Magistrate? And then whether for the exercise of his Ministry, he may and is oblig'd to set up and maintain a separate Communion?

1. Whether Ordination obliges such an one, &c.

To this I answer: If a Magistrate may lawfully deprive (as I have shew'd he may) then the Clerk may be lawfully depriv'd. And if lawfully depriv'd, he is bound to submit to such Deprivation; and that in obedience to the Magistrate, whom we are taught (as he knows) not to resist. But to officiate notwithstanding such a Prohibition, is in our way to take up Arms against him; and in a lower to do what the Pope doth in a higher Station, and to controul his Jurisdiction. Our Author undertakes to tell us what was done in the Primitive Times; but if he had consulted them, he would have found, that when by the Imperial Power *Eustathius* was put out of *Antioch*, *Athanasius* out of *Alexandria*, and *Paulus* out of *Constantinople*, tho the Orthodox complain'd of the Injustice of it, as done upon the malicious suggestion of the *Arians*, yet they never question'd the Emperor's Power. But supposing that he is not bound in this Case; and that he may as lawfully, and is as much oblig'd to exercise his Office as ever: yet what is this to a Separation? For is he so oblig'd, that rather than not officiate, he may and ought to break off from Communion of the Church? It's agreed by all, that we are to continue in the Communion of the Church we are of as long as we can; and that a Separation from it is like a Divorce, which is the last Extremity, and which nothing can justify but when the Terms of Communion are unlawful. But one depriv'd of his Ministry may hold Communion with the Church if he will, since there is no change in the Terms, and the Church is as much the same when he is not a Minister in it as when he is: And his officiating as a Minister, being not a Term of Communion, the Communion with it is the same when he is not a Minister as when he is.

The Case of Dissenters.

This was true Doctrine against the Dissenters when time was; he was a Schismatic who gave this as a reason for his Separation. And if they now proceed on the same Principles with the Dissenters, and take up their Arguments, there is as much reason to charge them with Schism, as they had to charge the Dissenters.

Arg. 3. He argues from the Subjection the People and Clergy owe to the Bishops, and the Bishops owe to their Metropolitan: So that if Bishops or Metropolitan be depriv'd, and others substituted in their room, *it will unavoidably necessitate a Schism.*

Sense of the Primitive Times.

Our Author that undertakes to give us an account of the Sense, Judgment, and Practice of the primitive times, would have done well to have given us a touch or two of his Skill that way, by some credible Authorities; and particularly of such a Subjection of the Bishop to the Metropolitan, to the Confutation of some of St. Cyprian's Epistles: And that Bishops after the Proceedings against them by Imperial Authority, were still accounted Bishops of those Churches they before were Bishops of,—and neither Clergy nor People renounc'd them, unless they were guilty of such Crimes, for which the Censures of the Church did depose them, or the Canons ipso facto deprive them, as Heresy: or that there is no way to free us from the Subjection and Obedience we owe to them, but either Death, Deprivation, or their own Renunciation; which last, he saith, was never accounted commendable in a Bishop. For the Christian World has hitherto been persuaded, that in fitting Cases both Bishops might be depriv'd, and both Clergy and People discharg'd of any Obedience owing to them, by a secular Authority (as has been shew'd) But if what this Author suggests, be a just Enumeration of all the cases for which Bishops may be depriv'd; then there is no case in reserve for the secular Power to forbid or deprive: and 'if by the Impetuosity of that Power (as his Words are) a Bishop was set over a Church or Diocess,

Dioceses, in opposition to one there canonically plac'd already, it would always in course produce a Schism. This he saith was, and this is the case, for our Metropolitan and several other Bishops are now actually by a Secular Act depriv'd; and because by a Secular Act depriv'd, and for no Crimes for which the Censures of the Church depose them, they are Bishops still, and they are bound to take care of their Churches, and their Churches to live in subjection to them.

This Subject cannot be thoroughly handled without passing some Limits I desire not to transgress; tho the way he has handled it in, and the small deference he gives to, nay the contempt he casts upon the secular Power, concerning it self and interposing in the Case, deserves a severe Rebuke; and which is so far from doing any real Service to the Right Reverend Persons he takes upon him to defend, that it would be to their Disadvantage, had not the Impertinency of the Person plainly discover'd, there are none of them in his Counsel.

But to return to our Author, Suppose the Case be as he represents it, how comes this to necessitate a Schism with us?

Is it because these venerable Persons stand depriv'd? Then it is not because of any thing unlawful in the Church, but because of the Bishops that suffer by the State, a Schism may warrantably be made by the Clergy and People. No necessity of Schism.

Is it not for that reason alone, but because others are to be substituted in their room? then why is there a Separation before it? and his Argument proceeds upon this, that they are bound to join and go along with the Bishops.

Why must this necessitate a Schism to all? For are those Dioceses and Clergy who have their Bishops, equally involv'd in the same Case with those that are depriv'd of theirs?

Or why must it necessitate a Schism, when the Metropolitan and Bishops depriv'd declar'd their Aversion to any such Separation?

This Argument will serve either way: for if the Clergy and People are oblig'd to submit to and obey their Bishops, and the Bishops their Metropolitans, then those that are of the Province and Dioceses, where their Metropolitan and Bishops have taken the Oaths, are oblig'd to adhere to their Metropolitan and Bishops, and may as warrantably and as much ought to separate from these that set themselves against Authority, and refuse to swear Allegiance to it, as they on the other side think they may and ought to separate from those that do comply with it.

Again, if they are oblig'd thus to go with their Metropolitan and Bishops, then if the Metropolitan and Bishops, notwithstanding their Deprivation, continue in the Communion of the Church, they are oblig'd also to continue; and if they separate when those don't separate, they must by his Argument become Schismatics.

Lastly, If they separate because they proceed (as he saith) according to the Sense, Judgment, and Practice of the antient Church: I would fain understand, when the Christians ever refus'd Communion with a Church because of Matters of State; or divided from others, because those they divided from thought it lawful and their Duty to swear Allegiance to the Sovereign Power? Separation unjustifiable by the practice of Primitive Christians.

In fine, a Schism it must be, and a Schism they are resolv'd to make, let there be a Reason or none for it: And as Truth will out, so he hath at last reveal'd the Mystery; and after all the Pretences they make, that it's for not deserting God, his Church, and their Duty, there seems to be something else at the bottom; and whether it be so or no, I leave the Reader to judg by what he tells us we must expect, and why, viz. *Tho they may go clothed in Purple and fine Linen* (as some others would have done, or thought to have done, had the happy Days of the last Reign continu'd) *and fare sumptuously every day, whilst care is taken that we may be starv'd; yet they must expect to be pelted; and then men will speak and write their Minds freely. For in vain do you imagine, that when Men have nothing to lose, they have any thing to fear.* No Sirs, if nothing else will do it, we will humble you, and throw such a Fire into your Church by the Schism we will make, that you may be sensible you have provok'd Men of Spirit, and that if we cannot have Purple and fine Linen, and sumptuous Fare with you, we'll make you as miserable as our selves. Look you to it, for betwixt Dissenter and Dissenter we will grind you to death, and make you rue that ever we left your Church, or that the Government hath made us thus uneasy under it.

This I take to be but a just Comment on this bold Text of his: But let him and those of his Mind cherish this malignant Humour; I am confident no wise or good Man but will think those that are of this Kidney, had better be out of the Church than

than in it: They are such as there was no great reason to oblige when in our Communion, nor to fear (threaten as they will) when out of it.

But as for those whom by their frantick Zeal and fair Pretences they delude, we ought to pity and to pray for them, and with meekness to shew them their Error.

Whether our Author hath stated the Case rightly, I shall, with him, leave to indifferent Persons to judg: But if he hath not (as I think has been sufficiently prov'd) then, to use his Words, *they may wash their Hands with Pilate, but they cannot wipe off the Crime of Schism*, they are by this new Separation justly charg'd with.

SECT. II. Of the Publick Good.

But now he opens a new Scene. Before he consider'd the Case with respect to the Church, but now he comes to consider it with respect to the State. His Design before was to vindicate themselves, if he could, from a Schism, and to charge it upon us: But now his Design is to expose the Arguments for the Oaths, and to make those that take them guilty of Perjury. In order to which, he thus states the Case for his Adversary; *The whole stress of his Discourse, saith he, is founded on this single Point. 'That the Consideration of the Publick Good doth dissolve the Obligation of an Oath to a Sovereign Prince, rightfully claiming. For this he must mean, if he will speak to the purpose.*

The Opinion
stated by
the Jacobite.

In opposition to this, he saith, *That no pretence of Publick Good whatsoever can warrant us to destroy a lawful King, or take off the Obligations of an Oath, whereby we have bound our selves in all things lawful and honest to obey him.* And he immediately adds, *The contrary our R. Author undertakes to prove; which I cannot reflect upon without Grief, because it seems to me a Task, which would much better become a Committee-Man, or Sequestrator, than a Divine of the Church of England.* And certainly so it would, if the Author of the Discourse had undertaken to prove what he here charges him with, viz. *That the Publick Good will warrant us to destroy a lawful King, &c.* But all the while this Man cannot believe himself, and therefore he returns to the consideration of the Proposition concerning the dissolving of an Oath for the sake of the Publick Good; or as the Discourse words it, p. 7. *The Publick Good is the true and just Measure of the Obligation in Publick Oaths.* Against which he saith, *If we should grant that he had prov'd it in Thesi, yet he has no where so much as offer'd to prove it in Hypothesi, and apply it to our particular Case.*

The Jacobite's bad
Memory or
Conscience.

Surely our Author never read the Book he pretends to answer, or if he did, he must have a bad Memory, or a very bad Conscience; for the Discourse thus proceeds upon it, p. 3.

I shall enquire into two Things.

1. *The Nature, and Measure, and Obligation of political Oaths in general.*
2. *The Difficulties which relate to our Oaths in particular; upon the last of which he spends two thirds of the Book.*

And now let us see what our Author has to offer in confutation of what is rightly call'd the *single Point*, in the Discourse about the Obligation of Political Oaths, and the Influence the consideration of the Publick Good has in them.

I shall try, in his Phrase, to bring his rambling Arguments into some order; and what he has to say is,

How Publick
Good is
impracticable.

1. *That the Publick Good is impracticable, and liable to be abus'd.*
2. *Who shall be the Judg?*
3. *What is the Publick Good?*

I hope he will give me leave to begin with the last, if not for the sake of Reason and true Order, yet for the quaint Expression of his Friend, that *publick or common Good is a common Notion, and signifies nothing unless it be stated and explain'd; Inquiry, p. 10.*

What is
meant by
Publick
Good.

1. *What is this Publick Good? Our Author enters upon this Point in a fit of Quixotism; I desire to know of our Author where this Divine Beauty dwells, whom all our Knights Errant run mad for, and fill the World with Blood and Slaughter? And he answers for him in a very Metaphysical strain; She is generally made a delicate fine thing in the Abstract, a separate invisible Being, distinguish'd from all personal Interest and Benefit. Now with his good leave, I desire to know of him where these Platonick Gentlemen live, that doat thus upon Ideas and Abstracts, and run mad for such a separate and invisible Being, which they call Publick Good; that is, in his Phrase, good for no body: For I am apt to fancy no body will be found to be for that any more than himself.*

But

But let's see whether he that keeps out of this *mad Crew* (as he calls it) and that is willing to put in for a share in it, comes off with any better Success; and whether after all the Knowledge he pretends to have of this *Divine Beauty*, he can better describe it?

Publick Good, saith he, is a *Personal Good*, and that which makes for the Welfare of every one in the Community; and which every Man bath or ought to have a share in. Or if you would have it in the same Quixotian strain, *She is a most sweet-natur'd Creature, that doth good to all, &c.* To do him right as to the Notion, he is not alone; for the same way goes the *Inquirer*, p. 10.

Now I very much question this their Notion of *Publick Good*. I grant, that every particular Person hath his share and right in the Publick. But,

1. That is not as a particular Person, but as a Member of the Publick. And he actually shares in it, when his particular Good and the Good of the Whole, or the general Good meet together: but if they are separated, and become inconsistent, it then becomes a personal and private Good. *The Notion and Extension of Publick Good consider'd.*

2. *Publick Good* is so far from comprehending in it the Good of every Individual, or of every Party of Men, that the particular Good of Persons, Parties and Corporations is often destroy'd for the Good of the Publick; and they are often undone for the preservation and benefit of the Community: For as the *Inquirer* (tho in contradiction to himself in the Sentence just before) saith, *If it be such a Good (or rather such an Evil) as is only for the benefit of a Party, and in respect of the whole, of the least or a small Number [and much more of a particular Person] 'tis impossible it should be a Publick Good.* So that if personal Good and publick Good may be and often are inconsistent, the publick Good is not a personal Good.

3. *Publick Good*, that makes for the Welfare of every one in the Community, is a *Divine Beauty* indeed, but it's a delicate fine thing in the Abstract, an invisible Being not to be met with in this lower World. And when we speak of it as it is, it's in the *Discourser's* Language, a general Good only.

And therefore after all, I shall make bold to conclude in that Author's Words, *Discourse*, p. 9. 'The Right of a Person is not to be taken as distinct from the Publick Good. For if it be inconsistent with it, there is no ground to set up a personal Interest against a publick Good.'

2. He argues against *Publick Good's* being the Measure of the Obligation of Publick Oaths; because it's impracticable and very liable to be abus'd. Thus our Author: *How specious soever any Proposition may seem in the Theory; yet it ought not to be esteem'd right or sound, if it be impracticable without filling the World with perpetual Troubles and Confusions*, p. 8. And so he runs on for several Columns together in a Rant against the Mischiefs this Pretence has usher'd into the World, p. 10.

The Sum of all which is, 'That *Publick Good* doth not take off the Obligation of Publick Oaths, or make it lawful to take New, because this Doctrine is impracticable; and it's impracticable, because it's very liable to be abus'd. Now besides the Inconsequence of this, this is a way of arguing that may serve against any thing; and if we put Publick Justice, or Laws, or Religion, or Reformation, into the place of *Publick Good*, it will hold in any of them as well as the other. As for Example, 'The Doctrine of reforming the Church [how corrupt soever] is very liable to be abus'd; for the greatest part of Mankind being wicked and credulous against their Governors, under this pretence a sort of Knaves, with active Fools, may at any time cry up a Reformation, and overturn any Establishment, &c.'

Jacobites Assertions ridiculous.

But he may say, it's not the *Publick Good* that doth this Mischief, and makes it impracticable, but the Pretence of it. But how shall we know when it really is so, and when so in pretence? Our Author is silent in the Case, but the *Inquirer* has an Answer ready; *Nothing can be a Publick Good to any Nation, where the exercise and practice of it is not warranted by the Law, Custom, and Constitution of that Nation*, p. 11, & 20. And with him agrees the Author of the *Discourse*, p. 8. (excepting in the *Nothing can*) *The Laws, Rights and Customs are the Standard of the Publick Good of a Country.* But then these Two differ about the Constitution, and that is not a Controversy here to be entred into. The use I make of it is, That the *Publick Good* is still the Measure of the Obligation of Political Oaths, as is at last acknowledg'd even by the *Inquirer*. But yet if after all I should deny the *Inquirer's* Proposition, that *Nothing can be a Publick Good, but, &c.* and should say, that the *Publick Good* is above all Law and Custom, I conceive I should not mistake. For what made Custom, Law and Constitution, but the *Publick Good*? And if a Case

Publick Good the Measure of Political Oaths.

Case should happen which never happen'd before, in which the Publick Good is so far concern'd, that without some extraordinary Course be presently taken, the Nation and Government will be destroy'd, I do not question but this Case will as much require the Care of the Nation, as any Case now doth require the making of a Law, for which there was no Law before; or as it's requisite there should be a Chancery to adjust those Matters to which the Letter of the Law doth not reach: For there are such things as Necessity, Equity, and Reason of State, which are Law all over the World; and that are as much the Standard by which all Laws and Customs, in extraordinary Cases and Events, are to be adjusted, as Law and Custom are the Standard by which all ordinary Cases are to be determin'd, and which are the settled Measures of the Obedience we owe to Governors. Such a Case was that in Poland, when Henry of Valois in haste and with secrecy left the Throne vacant. A Case extraordinary, and which they had no Law to govern them in; but they had that which is a Law to Law, Necessity and the Preservation of the Nation, that soon taught them what was to be done.

This brings me to consider,

Who is to be Judg when the Publick Good is invaded.

3. Who shall be the Judg? that is, Either who shall judg when the Publick Good is invaded, and when the Laws, Customs and Constitutions are violated? Or, who shall judg what's fit to be done in such a case by way of Remedy? As to the former, the Case before us is suppos'd to be notorious, and what has an evident tendency to the destruction of the Government: Of which some things are of that nature, as they are destructive of Government where-ever they are, as the Desertion of a Kingdom; or the natural Incapacity of the Governor by Lunacy, &c. Other things there are which are destructive of the National Constitution, and such amongst us as has been thought to be an absolute and universal Power of dispensing with the Laws. Now when the Cases are notorious, this Author might as well have ask'd, who shall be the Judg, whether the Banks are broken down in an Inundation, or whether there is a Breach in the Walls when they see the Enemy press through it, or the City in the Power of the Enemy when they see the Fortifications of it dismantled?

But who shall be the Judg, that is again, by way of Remedy? Here our Author thus puts the Case, either that must be the *Supreme Governor*, or some other *Man or Body of Men*, or the *Mobile*. The former he chuses for himself, the second he argues out of the way, and the third he gives to his Adversary: For thus he concludes; *After all the Matter comes to the Mobile, and every Man must judg for himself: — And have not we extremely mended the Matter, by putting it into the Power of every Subject to depose his King; or at least to endeavour it to his utmost, in case he apprehends it will be for the Publick Good?* p. 9.

Who is to be Judg about Succession, Desertion, and Vacancy.

As to the first of these the *Supreme Governor*, the Case we are upon immediately concerns himself; and then either there must be no Judg, or he cannot be the Judg. For suppose the Controversy be about the Succession and Title; suppose about an Incapacity, a Desertion and Vacancy; suppose it be about the Violation and Destruction of the Government and Constitution design'd by him, or the Nature and Obligation of the Oaths to him. This is not only to make him a personal Judg in his own Case (which the Law permits not in Suits of Law betwixt Prince and Subject) but to set him above himself; and in our Author's Phrase, to *set a Supreme above a Supreme*. And then the Question should be put, not who is the Judg, but whether there is any Judg? But I readily grant, that the Supreme Governor has no Supreme, and whatever has been done in a Case extraordinary, doth no more make a Convention or Parliament Judges (properly so call'd) than that the Parliament is equal to the King, because he can make no Laws without them.

As for the Case of the People, our Author writes as if he had never read his Adversary, who after he had resolv'd the Point into the Common Good, saith, *I do not hereby go about to set up the Power of the People over Kings, which is in effect to overthrow Monarchy; for then the whole Sovereignty would lie in the People, and Kings would be but their Servants*, p. 18.

And therefore there is the third Case remaining, which is that of a *Body of Men*; and thus the Question is put in the Discourse:

Whether the Law of our Nation doth not bind us to Allegiance to a King and Queen in actual Possession of the Throne, by Consent of the Three Estates of the Realm: And whether such an Oath may not lawfully be taken, notwithstanding any former Oath, p. 8.

Consent of the People, and Common Good.

This he undertakes to prove, p. 13. as that's no other than the Consent of the People, whose true Representatives they are, as he shews.

To this our Author has nothing to say; but the *Inquirer*, that he may seem to say somewhat, took what serv'd his turn, and left out the rest (to use his own Words) For this Adversary having said, p. 18. *If there be a Rule, the general Consent of the People join'd with the Common Good seems to have been that, which our Ancestors pretended to;* he presently runs out upon this in a vehement Epostulation, *Where or how can all the People meet?* As if the Author he opposes thought of no less than the numbring of the People from *Dan to Beersheba*: Or as if there was no way of taking the *General Consent* but by an *Universal Assembling*. He that quoted what was just before and after, could not miss the Explication there given; *The Consent of the People, that is the Three Estates of the Realm, &c.* p. 19. and elsewhere.

I might think here of closing the Discourse upon Publick Good, when he himself grows weary of it; but to give an Answer to what remains, it's fit with him to return to it.

The Author of the *Discourse* towards the beginning, treating of the *Nature and Measure of the Obligation of political Oaths*, shew'd,

1. That the Obligation was not barely from the Oath, but from somewhat antecedent to.

2. That the publick Good is that Antecedent, the main End chiefly concern'd in the Obligation; and the Obligation to Magistrates is to be in subordination to that End.

3. That an antecedent and superior Obligation voids that which is subsequent and inferior, when they contradict each other. So that if an Oath to the Person is truly inconsistent with the Welfare of the People, the Obligation cannot continue.

That this is so in other cases, he shews; there being no Relation of Mankind one to another, but there is *some Good antecedent, which is the just measure of that Obligation they stand in to each other*. Thus he describes it to be between Parents and Children.

(1.) On the Childrens part to Parents: insomuch that if a Vow to God (which is as solemn a thing as an Oath) hinders that Good which Children are bound to do to Parents, it ceaseth to oblige, as our Saviour declares.

To this our Author replies: 'His Comparison of a Vow and an Oath is nothing to the purpose; for who ever thought that either an Oath or a Vow bound a Man contrary to his real Duty? The Sin in such a Case is in making them, not in breaking them, p. 13.

I answer; The Instance is to the purpose: for if the procuring and preserving the publick Good be a Duty; and what a Person hath vow'd or sworn, be destructive of it; then the Oath cannot oblige, no more than a Vow not to feed or maintain a Parent; and the Jurant is discharg'd of the Obligation.

And whereas he saith, *The Sin is in making them, &c.* That is true where the matter is unlawful in it self (as when the Jews bound themselves to kill St. Paul) But the Case may happen so, that it may be not only lawful, but a Duty to break that Vow or Oath, which was lawful in its own nature; or rather the Obligation comes to cease, because by change of Circumstances or of the original Reason of that Oath, that which was lawful may become unlawful. Thus it was in things sacred, and dedicated to the Service of God, and which could not be alienated from it without Sacrilege; and yet it was lawful to apply them otherwise in case of Necessity, as our Saviour's case of the Shew-bread proves. And so it may happen in the case before us, when that which was before for the publick Good, and which it was lawful to swear to maintain, may afterwards come to be plainly destructive of it; and so the same reason that there was for swearing to maintain it, may be for setting it aside. The want of this Consideration led this Author into a Mistake, when he saith, *Let our Author speak out, and tell me, that taking an Oath of Allegiance to a lawful Prince is contrary to my Duty, and then, &c.* For it might be lawful and his Duty to take an Oath to a lawful Prince; but it follows not that no Case could ever happen, in which the Obligation of such an Oath ceases. It was lawful for Jaddus the High-Priest and the rest of the Jews to swear Allegiance to Darius as long as he liv'd: And yet when Alexander came with a powerful Army against them, and Darius was in no Capacity of defending them, it was lawful, and as they thought their Duty, for the Preservation of their Country and themselves, to go out to meet him, and to transfer their Allegiance to him; and certainly they thought themselves discharg'd from their former Oath to the one, when they took it to the other. So true is that which the Author of the

Publick Good antecedent to all Obligations. Superior Obligation voids an Inferior. Proved.

An unlawful Oath not Obligatory.

The Practice of Jaddus the Jewish High-Priest.

Discourse observes; That the Resolution of Conscience in this Case doth not depend upon the Will and Pleasure of the Person to whom the former Oath was made, but upon the Grounds on which it was made, and from which it had its force to oblige: And if those cease, the Obligation of the Oath ceases together with them, p. 13.

Parents
and Chil-
dren.

(2.) It is so on the Parents part to Children, as the same Author shews: So that if Parents, instead of regarding the Good of their Children, do openly design their Ruin, none will say but that they are bound to take care of their own Welfare, &c.

To this our Author replies:

1. I know not what a Madman may do, but none will suppose that a Parent in his right Wits will do thus; as it is both unnatural and unreasonable to think, that a King should contrive the Destruction of his Subjects, without whom he hath none to reign over or assist him. This I grant is unnatural and unreasonable in it self, but not unreasonable to think; for the World too often finds that the Passions, and Lusts, and Interests of Men make them do things unreasonable and unnatural. And our Saviour tells us, how far the hatred Persons have to the true Religion may transport them, when the Fathers shall betray and deliver their Children to Death.

And if it is so on the part of a Natural, it may be as well suppos'd on the part of a Political Parent.

How Prin-
ces destroy
their Peo-
ple without
declaring
their Inten-
tion to do
so.

That he saith is unreasonable to suppose, because a King by the Destruction of his Subjects leaves himself none to reign over, or assist him. But who ever was so mad as to mean this, when he puts the Case of a Prince's destroying his Nation? for then he must come to do it with his own hand, and his Nation must in Caligula's way have little more than one Neck to serve his Barbarity. But they thereby mean his Design to destroy the Government, and to destroy those that will not comply with, but oppose such a Design: He choosing rather to have no Subjects than what shall not be his Slaves; or in the modish way of a neighbouring Prince, that will not be of the same Religion with himself.

2. He saith, The Author should have told us, that the Children, in such a Case, might have taken away all the Father's Subsistence, and done their utmost endeavour to starve him, or cut his Throat; and no doubt but this had been an excellent Comment on the Fifth Commandment.

But why should that Author be oblig'd thus to have told us?

The Case
of a Fa-
ther alie-
nating the
Estate
from his
Children.

For suppose the Father would alienate the Estate from his Children, which is entail'd upon them; and designs to adopt a Stranger into that Relation, and substitute him in their Place: Suppose again, that a Father has several Tenants that hold of him by antient Tenures, and by which Tenures, and performing the Conditions belonging to them, their Lands are as much their Propriety, as the Land of Inheritance is their Lord's; and that he notwithstanding seeks to destroy their Tenures, because they oppose him in his Designs against his Children, or in that absolute Power over them which he aims at: Suppose again, that rather than not compass his Designs, he seeks the destruction of his Children, and of the Tenants that adhere to them for their own mutual Preservation and Security: Is there no Mean to be found, but either to let the Father out, and starve his Children, or that the Children must take away all the Father's Subsistence, and do their utmost to starve him? No Mean, but to let the Father cut the Throat of his Children, or that the Children must cut the Throat of their Father? And may not a Son withdraw from his Parents immediate Care, (as the Discourse saith) and forsake his House, when he cannot stay there but upon the hard terms of being destroy'd, or of resigning up the Title of his Inheritance to a supposititious Heir? Or, may not the Son take possession of his Father's House, and the Estate of Inheritance, which the Father abandon'd rather than he would oblige himself to continue the Estate in his Family, and suffer the Tenants to hold their Lands by any other Tenure than that of during Pleasure? May he not, I say, then enter upon the Estate, rather than suffer the House to fall, and the Lands to be wasted, and the Tenants undone for want of a Supervisor and Possessor? And may he not keep the Possession against his Parent in his own, his Families and Tenants Right, when he comes with an armed Force of Rapparees to enslave his Children and Tenants, and exercise an absolute Power over them, or else destroy them? And may not all this be done and the Fifth Commandment stand in its full force? If not, we must burn our Law-Books, and take new Measures from these Gentlemen, that despise and reproach the Common Good, as an Engine fitted (in his phrase) to overturn any Government; and that whilst they pretend to plead for Law, set up a mere Arbitrary Power.

The third Instance in the *Discourse of the Relation of Mankind one to another*, is that of *Masters and Servants, Victors and Captives*; in which the Author proves there is a regard had to the benefit of those who are in Subjection.

Here our Author interposes; I know not, saith he, to what purpose he so labours to prove that a Natural Equity of Common Right is due to Subjects, yea even to Slaves: For who ever thought, that being under Government, metamorphos'd us into Beasts, or worse?

It's the first time (tho there was reason enough for it before) that this Author confesses his Ignorance; and it's pity he should be sent away uninform'd.

1. It was necessary, because tho being under Government (rightly so call'd) doth not metamorphose us into Beasts, yet mere Absolute Power comes very near it.

2. It was to the Purpose, because the Author of the *Discourse* had undertaken to prove, that there is no Relation of Mankind one to another, but there is some Good antecedent, which is the just measure of that Obligation they stand in to each other. Thus it is, saith he, between Parents and Children, Masters and Servants.

Oh but, saith our Author, he should have prov'd, that because the Subject has a Common Right therefore he can receive no wrong; that is, he should have proved Non-sense and Inconsistencies.

Aburdities in the Non-swearers Reasoning.

Or (as he goes on) if he do [receive wrong] or apprehend he shall, then he may cry out, The Publick Good, and raise Rebellion, and overturn any Government: that is, because he has receiv'd a private Injury (in which the Publick is not concern'd) he may cry out the Publick Good: It's well he before told us the Publick Good is a Personal Good, or else I should have fil'd this up for a new Blunder.

The 4th Relation mention'd in the *Discourse* is that between Princes and their Subjects: where the Author prov'd, that the Good of the whole is the just measure of the Obligation they stand in to each other.

1. From what the strictest Casuists have allow'd under a State of Usurpation.

2. From the nature of Political Oaths, which are Reciprocal. As to the first of these.

1. In the foregoing Paragraph our Author will needs have his Adversary to have borrow'd the worst of Mr. Hobbs's Principles to patch up his *Discourse*, tho he confutes him. And here he will have him displeas'd with the Casuists, tho they agree with him in the main Point about Publick Good, as he there recites their Opinion. It is not denied, saith he, by the strictest Casuists in these matters, but that under a State of Usurpation, notwithstanding their Oaths to a rightful Prince, Men are bound to do those things which tend to the Publick Safety, as well as their own.

No Principles borrow'd from Mr. Hobbs

Now what's this but to prove (as far as that Author intended it) that the Publick Good is the measure of the Obligation, because the strictest Casuists in those matters do not deny? &c.

But however our Author will have it so that they have displeased him; and he gives a very surprizing reason for it, for thus he goes on: In another Paragraph He (the Author of the *Discourse*) discovers the reason of his Displeasure to be this, that they have not allow'd them to do every thing in a State of Usurpation, which they might do under their lawful Sovereigns.

If I had never read more than two Pages of the *Discourse*, I durst have adventured as much as our Author would have laid sometime since that King William would never pass the Boyn, that there is no such Paragraph, and no such Reason in the whole Book: and I dare now vouch after I have read it, that there is no more any such Paragraph, than that King William is still on the other side of the Boyn, or died of the Wound he receiv'd there.

But since the Casuists will not be of his Mind, that Author will it seems be even with them; for (if our Author be to be credited) he roundly condemns them all, for founding it on the presumptive Consent of the absent Prince: but it is his own Mistake, for quite contrary, they found the presumptive Consent of the absent Prince upon the Publick Good.

The Casuists against Jacobitism.

After all it seems by his own Confession, that the Casuists and his Aversary agree, that under a State of Usurpation Men are bound to do those things, which tend to the Publick Safety: but they disagree about the reason it's founded upon: For saith the *Discourse*, the Casuists found it (that is, the Obligation Men are under in that State, to do what's for the publick Safety) upon a presumptive Consent of the absent Prince. But that's his own Mistake, saith our Author; for quite contrary, they found the presumptive Consent of the absent Prince upon the Publick Good.

What a Penance have I to undergo, that must teach a Man his A B C; and that puts C for A, and B for C; (for it's no better with him here).

We are now not enquiring, upon what the *Consent of the absent Prince* is founded; but upon what the *Casuits* found their Opinion of the Obligation that lies on Mankind to do what tends to the Publick Good, under a Usurpation. The former indeed the *Casuits* found upon the publick Good, but the latter they found upon the *presumptive Consent of the Prince*, as is evident from what he himself quotes out of Bishop Sanderfon.

The Case then is, that those *Casuits* found their opinion of doing what tends to the publick Safety under an Usurpation, immediately on the absent Prince's Consent; and remotely by him, and for his sake, on the Publick Good. But now the Author of the *Discourse* thinks this to be a mistake; for, saith he, *The true Reason is, that Men are in the first place bound to promote the Publick Good, and consequentially and with respect to it, to regard the Will of their Princes, who are appointed by God and Nature for that end. And if such be rendred incapable of doing it, yet the Obligation on others remains.*

2. The *Discourse* proves, that the Publick Good is the true and just measure of the Obligation of Political Oaths, in that the Oaths are reciprocal. Whereas if only the Good of the Persons, to whom the Oaths of Allegiance are made, were to be our Rule, there would be no mutual Oaths. This that Author proves from the Word *Allegiance* (which originally signifies a Contract) and from *Glanvil* and *Bracton*, &c.

Political
Oaths mu-
tually ob-
ligatory.

Now this was a noble Subject for our Author to have tried his Skill upon, but as if he had the Spirit of *Clinias* upon him, he shuts his Eyes, and runs backward from the naked Weapon as far as he can: At last he is to be found three Pages behind, calling upon no less than two of the Holy Apostles to defend him, p. 12. for thus he saith, *To secure the Law on his side, he cites Glanvil and Bracton, but forgets what St. Peter and St. Paul said. Let him take his share with the Lawyers, I will venture my Soul with the Apostles.* A good thought! if the Lawyers go one way and the Apostles another. But I never read that St. Paul and St. Peter differ'd in this matter from *Glanvil* and *Bracton*; and that those Holy Apostles ever determin'd against them, that Political Oaths were not reciprocal; or that the Publick Good is not the true and just measure of the Obligation of such Oaths.

However by this Conceit he has got rid of a troublesome Task; *I need not*, saith he, now answer the Citation: but how his *as* and his *so* come to be a reason for it, I don't well understand. However I dare pass my word for his Adversary (who, he saith, *has chang'd his Divinity for a little bad Law*) that he has so much Divinity and Law yet left, as (no less than our Author) *never to be persuaded, that it was lawful upon any pretence whatsoever to rebel, or to countenance Rebellion against a Sovereign Prince*; and I am as sure that it is still, as he is that not long since it was both the Doctrine of the Church of England, and the Law of the Land: which brings me to the last Point.

Sect. 3. Of Obedience to Authority.

The Ad-
versaries
shifting.

After our Author had wearied himself (as he professeth) with *discoursing of the Publick Good*, and ruin'd the main Point, that he might yet render it, as *Jerusalem*, so incapable of Recovery, that not one Stone should be left upon another that should not be thrown down; he resolves to give a *Brief Answer* (to make good the Title of his Book) to such other things in the *Discourse* that may require it. Some of which, as belonging to the Subject of *Publick Good*, I have already consider'd. Amongst these, he selects the *Answer* that is return'd in the *Discourse* to the *History of Passive Obedience*. And here I thought, if any where, I should have found him bold and forward to support the Credit of that main Pillar of their Cause: but as if he was sensible of his own Weakness, he crys out abominably of the *Answer* to it, *shifts it off with a silly Comparison*; and as if he had rais'd a Spirit he could not conjure down, runs back as far as he can, without running out of the Book, to the Case of Vows (which is before consider'd) and then as one confounded, bounces forward again, and concludes, *I do not remember any thing more in his Discourse material, except a numerous heap of Instances, and in the Van comes the unfortunate Vortigern*; which was a little Wipe he sends, as that Prince was, out of the way; and then as if he had been inspired at *Montsorrel*, takes a leap from p. 13, to p. 34. of the *Discourse*: and there he meets with somewhat which was not material enough to be remember'd. But it seems his Adversary being so elevated about the Determination of

our Saviour, of paying Tribute to Tiberius, that he in Zeal cannot forbear to call the Non-Swearers Perjur'd and Apostates; Our Author conceives he may, without any Reflection upon his own Memory, call him to an account for it, if it were only for a notable Remark he makes upon it, viz. *Some Men surely are not only privileg'd, but admir'd for speaking Contradictions.* I was thinking for some time, where this Contradiction might be, and Dunc as I was, began to look backward and forward for it; whereas I perceiv'd at length it was that the Discourse charg'd the Non-Swearers with Perjury. But bating the Contradiction, we know who has been sufficiently quit with him for it, in the like charge upon the Jolly Swearers.

After I had found out this Conceit, I was at a loss again to find out the Paragraph where this Contradiction was: and at length discover'd it, but found withal our Author true to himself; who for ought I see, may (in his own Words) be privileg'd, but I doubt not admir'd, for his many blundering Mistakes, of which this is one; for he might as well have said, and with as much Credit to his own Understanding, that his Adversary call'd the Non-Swearers Jews, as Perjur'd and Apostates. For indeed what is said in the Discourse of Perjur'd and Apostates, is apply'd to that People, and only to them. The Words are these:

As to the dreadful charge of Perjury and Apostacy which some have made use of against those who hold it lawful to take the Oaths—it would have had more Appearance of Reason, if the Pharisees had urged it against our Saviour's Resolution of the Case about Tribute-Money, after this manner: For, had not God by his own Law settled the Government amongst them? &c. What can it be then less than Perjury and Apostacy to give any Countenance to such an open Violation of this Law?

No Contradiction in what the Author has writ.

Who would not pity this Writer of Controversy, that cannot see into the Connexion of an Argument for ten lines backward or forward? for what Reason I will not determine.

But now comes on a Flourish of Learning; for by an unhappy Parenthesis the Discourse has of Velleius Paterculus about the Senate, he understood there was, I will not say such an Author in the World, but such a Passage in that Author (for he was sensible he might trust his Adversary in that matter) and here he bears up to him, fights him with his own Weapon. *To be short, saith he, I think the Testimony of Velleius to be better than our Author's, tho he so scornfully rejects him:* as if his Adversary had set his own say-so against that of Velleius, whereas he had prov'd the contrary from Suetonius, Dio, and Tacitus; and therefore might well say, whatever Velleius Paterculus pretends.

We are at last drawing to a Close, and therefore he resolves to give his Adversary a parting Blow or two. *He boasts, saith he, what he had gain'd upon the account of the Jews paying Tribute, but it will impose upon none but Fools and Partizans, and I will give it no particular Answer.* Merciful Man! because he misrepresents the Case both of the Jews and Tiberius. But it would have been some Satisfaction in this suspicious Age to have given an Instance or two; or else there are a sort of troublesome Inquirers, that will be apt to believe that the best reason he had why he would not give a particular Answer was, because he could not. As now it will be ask'd, Wherein doth the Discourse misrepresent the Case of the Jews? Was it that Darius was any other than a *de facto* King over them? or that they did not swear Allegiance to him as long as he liv'd? Or, did they notwithstanding, not submit to Alexander, and enter into his Service, and transfer their Allegiance to him? Where again doth the Discourse misrepresent the Case of Tiberius? Had he any Right to the Empire? or had he at first any other Title than from the Pretorian Band and Legions? Or did not the Senate and People swear to him at last, tho he was in the Throne before, and a notorious Usurper of it? But tho our Author lets his Adversary go for once with his Misrepresentations Scot-free; yet by the virtue of some few Particulars he has in reserve, he questions not but to put him to the rout; and then let him (sorry Man as he is, that when girding on his Harness, boasts himself as he that putteth it off) reckon his Gains; and they are these four.

Case of the Jews not misrepresented.

1. *That none should rule over the Jews but one of their own Brethren, was design'd as a Blessing; and their being given up to Foreign Power, was a Judgment, &c.* What then? Therefore they might not lawfully transfer their Allegiance from their own Blood to a Foreigner. If that be the Consequence, what becomes of Nehemiah who serv'd as Governor under Artaxerxes? What of Jaddus and the Jews of his time with their Oath of Fidelity to Darius? &c. If they did well, the Question is (as it's in the Discourse) *On what Right that Oath is founded?*

2. He pleads, *They were under a State of Conquest.* What follows, but that there-

therefore their Allegiance to their Royal Stem was so far at an end; or they might lawfully transfer their Allegiance to a Foreigner? What now becomes of Succession?

3. He urges, That the Question to our Saviour, was not concerning Oaths but Tribute, which he grants all Casuists do allow may be paid even to an Usurper. But he knows, what Use and what Gain too his Adversary made of this; The Question is (saith the Discourse) Whether any Act of Subjection be lawful or not? If it be lawful to testify it one way, why not another? If in paying Tribute, why not in solemn promising to pay it? If in promising, why not in Swearing, i. e. in calling God to Witness that I do it? Thus far then we may go, we may swear to pay Tribute; but on what account? Is it not as a Token of Allegiance, i. e. as a Duty owing on the account of Protection? &c. If this way of arguing will impose upon none but Fools and Partizans; why doth not our Author, who is to be sure no Partizan, shew that he is no Fool by answering it, and preventing Fools from being imposed upon by such a shew of reasoning as here seems to be?

What Pri-
or Jus is.

4. He saith, That at that time no Man had Jus potius, nor had there been any prior Oaths taken in bar against Tiberius; so that tho he calls him an Usurper, I know not where he will find one with a better Title.

1. He saith, no Man had Jus potius, a better Right. Surely the Author turn'd over the Page before, where he will find that Agrippa Posthumus was then living, one much nearer to Augustus, and that seem'd design'd by him to succeed him.

Surely again there was a Jus potius in the Senate, from whom even Augustus was willing to receive it; and upon those Rights the whole was an Invasion; and which was as much as if it had been the Right of a particular Person.

2. No prior Oaths. What thinks he of the Oath of Jaddus to Darius, when yet he went over to Alexander? What thinks he of the Obligation to the Senate, as to the present Case?

3. He saith, I know not where he will find a better Title; that is, than one who intruded himself into the Throne without any Pretence in the World, without the leave of Senate or People. So that in all respects there was hardly a worse Title in the Universe.

But for once I will adventure to set a better Title before him, and that is of one, that when wrong'd by a neighbouring Prince and Relative, and by one resolv'd against giving him any Satisfaction as the securing that Right which he had to the Throne after his Decease, and a quiet Possession of it, took up Arms to right himself; upon whose Approach the other left his Throne and Kingdom, which the injur'd Person with the consent of the Estates of the Kingdom enter'd upon.

Now if Allegiance was lawfully sworn to Tiberius, a Man of as little Right to the Empire as of little Vertue: what is not then lawful and due to one that has such a Right and Title to it?

The Con-
clusion.

To conclude: If our Blessed Saviour did allow Tribute to be paid to Tiberius, and there is so little difference between Tribute and an Oath (as the Discourse has shewn) our Author might have sav'd his impudent Slander against his Adversary (which I will not repeat) who, as if he was run mad with the Sectaries he speaks of, in Solomon's Phrase casteth Fire-brands, Arrows and Death.

Toward the beginning our Author saith of himself; I have taken a safer course in this matter to appear before the Tribunal of Heaven, than the Jolly Swearers, p. 2. But when I reflect upon his Disingenuity and hard Censures, &c. I thought surely he was then in earnest (which his scornful Title he gives his Brethren there, seems not reconcilable to) he forgot himself for ever afterward; and little thought of the Tribunal in another World; or that there were any among Mankind to inmind (he knows the word) or to call him to an account here for such gross Prevarications.

A LETTER writ by a Clergyman to his Neighbour,

Concerning the present Circumstances of the Kingdom,
and the Allegiance that is due to the KING and
QUEEN.

Reverend Sir,

I Am much concern'd to find you in the number of those who scruple submitting to the present Government, and praying for *William* and *Mary* our King and Queen; and perhaps your Concernment is as great to understand me in the number of those that submit: Wherefore it cannot be unseasonable to argue the Case.

And first I doubt not, but that as I have submitted, so you stand out by the Impulses of Conscience; for as to the Point of Interest, it's visibly on my side. Take a Survey of *William* and *James*, examine the Accomplishments, Conduct, Religion of both, and can you be in suspence which is fittest to reign? The Life of *William* is unblemish'd, his Promises are good; he never forgot his Servant, nor forsook his Friend; he is of our own Religion, and set up by our Selves, so that it is impossible that he can have either the Will or the Power to hurt us. *James* is a Man, whose Religion has got so much the Ascendent of his Honour, that his Confessors Dictates are the Standard of his Gratitude, Justice and Truth; else one would have thought that the first Declaration he made at the Council-Table in favour of our Church, afterwards repeated in Parliament, his Coronation-Oath, and all the private Assurances he made to protect us in our Legal Establishment, as the Reward of the Loyalty, Courage and Zeal that we had shew'd against the Bill of Exclusion, and *Monmouth*, should have oblig'd him to requite us more kindly than by *Non Obstante*'s, and *Quo Warranto*'s, by reforming our Corporations and Colleges, by the Ecclesiastical Court, and Dispensing Power. The Marquis of *Hallifax*, and Bishop of *Ely*, are memorable Instances of the Esteem and Gratitude he paid to his Servants. And can you believe that *Lewis* the Fourteenth, and *Tyrconnel* the First, have bespoke us his Friendship, or procur'd us his Favour? especially considering what late Complements we have past on him at *Salisbury*, and *Westminster*, or rather throughout the Kingdom, by deserting his Army, voting a Vacancy, conferring the Crown on *William*, and proclaiming him King.

Parallel
between K.
W. and
K. J.

But I desire to satisfy, not to bribe your Conscience: If you look'd on the Point of Submission as doubtful and disputable, methinks the Interest of Church and State should determine you. But you seem to be positive, you say you have sworn to King *James*, and cannot be absolv'd: I suppose you have taken the three usual Oaths, that of Supremacy, that of Allegiance, and that of Non-resistance (as it may not unfitly be term'd) by virtue of the 14 of *Charles* II. Pray let's examine them apart.

As to the Oath of Non-resistance, your submission to King *William* implies no violation of it, nor departure from it. I have not heard that you took Arms against *James*, nor intend to do; and I am persuaded King *William* will not press it on you. Clergymen are dispens'd with as to the Point of carrying Arms; and therefore if you have not broken this Oath already, there's no danger that you will have any Temptation to do it. And consequently it can no way hinder your submitting to King *William*, whatsoever it bound you to suffer with patience at the hands of *James*. It does not hinder you from putting your self under the Protection of a milder and juster Prince, which may be either by your retiring into his Country, or by his obtaining the Sovereignty of yours without your help and aid.

Explanati-
on of the
Oath of
Non-resi-
stance.

But

But in truth, I wonder how it comes to pass that you are so fond of Passive Obedience at this unseasonable Juncture, since you use to boggle at it in better times. If all *England* had been of that Opinion, and acted accordingly, we had in all probability now not been a Church or a Nation; for it's in vain to depend on Miracles in this Age. If Men intend to secure their Lives and Estates, they must do it by Force; a temporal Interest must have a temporal Security. Indeed, Passive Obedience was a Doctrine very suitable to the Circumstances of the Primitive Christians, who valued not their Lives and Estates, who gloried in Sufferings, took with joy the spoiling of their Goods, or distributed them to the Poor. In short, it was a Doctrine very proper for them that had no Liberty, and dear'd no Property; see *Acts* 4 32. But our Case is very different from theirs; we possess Estates, and have a mind to entail them on our Children; and there is no way to do that but by the Power of the Sword. Unless we stand on our Guard, the King, and a few Villains about him, might cut all the Throats, and amass all the Wealth of the Kingdom. You had best therefore, either conform your Practice to the Doctrine of the Primitive Christians, or else reform their Doctrine as to the Point of Obedience, by the practice of the present Times. For if the Primitive Christians submitted even to Usurpers and Tyrants; how much more then would they to such a Prince, as by the Consent of our Senate fills the Throne of these Kingdoms?

Oath of Allegiance.

Let us proceed next to the Oath of Allegiance. And first, I desire you to consider, that it is not of such a perpetual Obligation, but in some Cases and Times a Christian may be absolv'd from it. It's the Custom of *England* to naturalize Foreigners, who yet had sworn Allegiance to their own Princes abroad, without consulting those Princes, and asking their leave. And it's the Custom of Foreign Princes to naturalize the Subjects of *England*, without asking leave of our King and Parliament, whereby their Allegiance is transferred to the Sovereignty to which they submit, and consequently it dies here. Now if this practice involv'd Perjury, it's impossible that ever it could have obtain'd, or at least been so long and generally us'd in Christian Kingdoms and States. *Cicero*, and after him *Grotius*, thinks it a Part, nay the Foundation of every Man's Liberty, to be a Subject to what Prince or State he pleases. And this is very suitable to our Saviour's Advice, of fleeing to another City when we are persecuted in our own; and to the Command given the Apostles, of preaching the Gospel to all Nations, whereby he made them as it were natural Subjects to the Sovereignty of every Place where they came, that they might without scruple pay Allegiance to it, and receive its protection.

It is capable of Limitations and Restrictions.

Thus you see the Oath of Allegiance is capable of some Restriction and Limitation, tho the words seem to imply the contrary. Now, this is very applicable to our Case: for tho we have not forsaken our Country, and retir'd to a Foreign State, a Foreign Prince has obtain'd the Sovereignty of ours, which is just as much as if we had submitted to his Sovereignty abroad; for Subjection and Sovereignty are related, which cannot subsist apart. If *James* retain'd his Sovereignty, the Oath of Allegiance to him were binding; but since he hath lost that, your Obligation falls of course, or rather accrues to his Successor, the King that reigns.

This will still more appear, if you consider, that your Allegiance bound you only by virtue of the Constitution of *England*, whereof you were a Member, and *James* the Head. But that Constitution has been intirely dissolv'd, and consequently all the Obligations that it impos'd are null and void. Now that our Government was dissolv'd, not to insist on the hard Words of the Lawyers, these two things indisputably evince; the King's disbanding his Army, and submitting himself to the Prince of *Orange*, which he did by inviting him to *St. James's*, and yielding himself to the Prince's Guards, when he might have avoided both. This was a downright departure from his Independent and Royal Power; and consequently a solemn Absolution of his Subjects from their Allegiance. There has never any thing been resented more heinously from a King of *England* by his Subjects, than a Submission to a Foreign Power: for indeed they cannot serve or obey such a Prince, according to the Constitution of the Government; by their Oaths they abjure and renounce all Foreign Princes and Powers, and acknowledg him Independent. Now when he himself submits to a Foreign Power, he either involves his Subjects in Perjury, or absolves them from their Oaths: Which as it takes in the Oath of Supremacy, so it makes way for the third Answer that I intend to give your Objection from the Obligation of your Oaths. If the Government was not dissolv'd, and your Oaths in force, as the greater part of the Nation, so you in particular are perjurd. Your Oath of Allegiance binds you to defend the King to the utmost of your Power, against

against all Conspiracies and Attempts whatsoever. Now I ask, Did you take up Arms for King *James*? Did you follow him into the *West*, or send any body thither to assist and defend his Person and Honour? If not, your Oath is broken, your Allegiance violated, and consequently of no force till it be renounc'd. But lest you should excuse your self by your Character from Feats of Arms; let me ask, whether you pray'd heartily for the King's Success against the Prince and his Army? Did you say, *Abate their Pride, Assuage their Malice, and Confound their Devices*? If not, what pretence can you have to Allegiance and Loyalty? But to render the violation of your Allegiance still more unquestionable, You have appear'd directly against King *James*; you were at the Election of Convention-men t'other day, very busy about forming an Interest for a Gentleman that had kept his Oath of Allegiance, and defended the King as much as your self. Pray see by what Law, Statute, or Ordinance was you there, or gave you your Vote? Certainly, if the King's submitting Himself, his Crown and Dignity, to a Foreign Prince, did not dissolve the Government, and turn the Kingdom into a State of Nature, your meeting there was an open violation of your Allegiance, a down-right Evil, or rather Rebellion; and if ever *James* should recover his Power, he would consider you as a Traytor. You knew he had no kindness for Parliaments, much less for Conventions; and would you then at once cross your Prince's Will, and the establish'd Laws, by chusing without a Writ? Or if you chose, why would you pitch on Men incens'd and provok'd against the Court, by the loss of their Interest, Honours and Offices, because they would not comply with his Designs? What, I pray, could you expect from such an illegal Choice of angry and injur'd Men, but the Vote for a Vacancy? If you had intended to rescue and restore the King, you should have made a Muster instead of an Election, and appointed Officers instead of Representatives; the Country should have risen in Arms and declar'd for the King, who alone could summon a Parliament according to Law. But now since you took the safer way, and chose by virtue of the Prince of *Orange's* Writs, you acknowledg'd his Authority, and sign'd by his Hand all the Acts of the Convention; they act in your Name, and by your Power, and therefore whatever they do is yours. Your Choice of them proves that you consider'd the Constitution as dissolv'd, and bespoke a new one such as they should think fit; for you gave them no Instructions or Limitations, so that they might have perpetuated their Power had they pleas'd. Now that they have nam'd a new King, the Act is yours, and you are bound to obey him; for had they recall'd the last, they had confest themselves Traytors and those that empower'd them; nay, they had been false to their Trust, for they had acted contrary to the Example and Desire of those that elected them. A Vote in the House of Commons after a free Election, gives the Pulse of the Nation; thereby it's plain, that the greater part thought the late King had fall'n from his Right. Now if there be any that would not have themselves included, they ought not barely to disobey, but to protest and rise in Arms before the Constitution takes Root; else, tho they dissent, they are virtually included, and suppos'd in Law to agree. If you like not the Acts of Parliament, where are your Powers? For either you ought to submit to their Decrees, or call them to an account for abusing your Confidence. To rail at their Proceedings, and yet to shelter your self under their Protection, is a Contradiction, which methinks should not be digested by a Conscience so tender as yours.

And hereby you may satisfy some of your Neighbours, that perhaps were not at the Election; for their Case is the same as yours, except that they publicly disown'd and oppos'd it. Every Freeholder is either personally or virtually at the Election; and as to the Law, it's no matter which: Indeed, this Juncture requir'd every Man's personal Appearance, either to Rebuke, Correct and Resist, or to Approve and Further the Choice, according as every Man thought the Government dissolv'd or in being.

In general, That a Government may be dissolv'd is not to be disputed. The four great Monarchies had their Periods, and almost all the Kingdoms and States in Europe, and a greater part of *Asia*, rose out of the Ruins of the last. Particularly, *England* is now a Kingdom, that was once a Branch of the *Roman* Empire. And as little is it to be question'd, whether a Christian ought to submit to the Government he finds in being: This the Apostle warrants, *Rom. 13. 1. The Powers that be* (that is, the present Powers, the Prince that is in possession of the Crown, which takes away all Defects) *are ordain'd of God*. Our Saviour paid Tribute to *Cæsar*, who could pretend no Right but Conquest over the Jews, and that of no great stand-

Some Governments form'd out of the Ruins of others,

ing. The Lawyers may talk of Prescription, and the Right accruing to the Possessor upon it; but to us that understand not Law, the plainness and simplicity of the Gospel must be suppos'd to give a more intelligible Rule. I don't remember that ever I heard or read it determin'd, how many Years make a Prescription for a Sovereign Right. I am sure, *Nullum tempus occurrit Regi*, is a Maxim of the Law of England; and *Edward* the Fourth is an Instance of it, who thought not his Title prejudic'd by three *Henries* of the House of *Lancaster*, who successively held the Throne. To be sure, the Law of *England* takes no notice of such a thing as Prescription in the Point of Sovereignty, nor appoints any Court wherein it's to be try'd; and consequently it's rational to believe, that it intends we should submit to the Prince that reigns: and this seems to be the Principle of the Gospel it self, which does not oblige its Votaries to scan and examine the Titles of Princes, nor to wage War against Usurpers, but rather quietly to submit to those that are possessors of the Power, till Justice be softned into Mercy, and Law exalted into Love; till Righteousness be universally practis'd, that there be nothing for Power and Law, for Courts and Judges to do.

But if at any time a Government can be dissolv'd, and if ever Christians might submit to a new Government erected on the Ruins of a former, ours is the Government, and we are the Christians. King *James* submitted to the Prince of *Orange* by offering him his Palace and going under his Guards; the People have submitted to him by obeying his Writs; and lastly, the Representatives, who had an unbounded and unlimited Power, chose and proclaim'd him King, as the just Rewards of the glorious Delivery he hath wrought for our Church and State: you your self have had a share in all this, first by not assisting King *James*, neither by your Person, Purse, nor Prayers; and then by chusing the Convention-Men, who have set things on this Bottom. Now, if your Conscience condemns you for what you have done, you ought to keep a *Lent* extraordinary for it; only let me tell you, That this is a Sin for which you may repent, but which you can never retrieve. To dissolve a Government is like Murder or Adultery; it's an Injury not to be redress'd, a Loss not to be recover'd. Nay, in pretending to redress what's past, you commit a new Offence: Your Allegiance is now translated to King *William* by your chusing him; and therefore to resist him, will be at once a Rebellion and Perjury.

How King
William
may be
reckon'd a
Conqueror.

But to conclude, If you are consistent with your self, you must submit to the King you have chosen; if not, you must submit to him as a Conqueror: it's somewhat invidious to give him that Title, but it belongs to him as much as to *William* I. Indeed, he has not conquer'd the Kingdom by Force, but by Charms; not by Violence, but by Goodness and Virtue. In short, he had no War with *England*, but only with the King and a few of his Ministers; and therefore the Victory can endamage none but them. Now the Justice of the War warrants him to carry his Success as far as he can. Till the Birth of him that was call'd the *Prince of Wales*, his Princess was the Heir presumptive to three Kingdoms. Now that Birth was not so very well attested, as to leave no Suspensions of an Imposture; the Prince desires a Trial before the Parliament of *England*; the King resolves to have no Parliament, or one that should be packt: Of this the Prince complains, but in vain; whereupon he was concern'd to vindicate his Princess's Title by the Sword, seeing all other Means were deny'd; and was ever War undertaken upon a more weighty or a juster Cause? For tho the Prince of *Wales* had been genuine, yet if he was not sufficiently known to be so, or at least pronounc'd so by the Supreme Court of the Nation, the Prince's Cause was just. But now, in a just War, the offended Party is not bound to redress the Injuries done to him, and no more; no, no, all Advantages may be taken that interfere not with the Law of Nations. It's just that the Prince of *Orange* should not only redress the Injury that provok'd him to Arms, but also pay himself for the Charges he has expended, and the Risques he has run, and the Loss he must have sustain'd had he been beaten in the Field; which was no less than of three Kingdoms, besides perhaps his Life, and that of the Princess.

Let you and me therefore submit to a King that has obtain'd the Kingdom by so just a War with so little effusion of Blood, and thank God that the Head of our Church is at once her Ornament and Security. Let us pray for *James* as for our Enemy, that God will sanctify his Afflictions, turn his Heart from Idolatry and Cruelty, and prepare him for Heaven. Let us pray for *William* as the Deliverer of our Church, and Defender of our Faith; and hope from him all those Favours that may make our Church and Island the Delight of God, and the Envy of Men. I am,

Reverend Sir, with all Sincerity, Yours.

A

A Vindication of their Majesties Authority to fill the Sees of the Depriv'd Bishops.

Printed about May 1691.

In a LETTER out of the Country, occasion'd by Dr. B-----'s Refusal of the Bishoprick of Bath and Wells.

SIR,

THE Account we have receiv'd here of D. B-----'s Refusal of the Bishoprick of *Bath and Wells*, hath occasion'd great Talk, and different Censures, as Men are divided in their Interests and Opinions. I know not what to think of it, because I know not the Reasons for which he did it; but it is an unhappy Amusement at such a time as this, to which a wise Man, who had well considered Consequences, would not have given the occasion. I hope it may end all in noise, without any mischievous Effects: but considering how many there are, who are very watchful to improve every Accident to the Disturbance of the Government, and to unsettle Mens minds, I cannot forbear giving you my thoughts about it; tho my tender regard for the Person concern'd, would have made me silent at any other time.

I can easily apprehend several Reasons which might move wise and good Men, where there are no greater and more pressing Obligations to the contrary, rather to chuse an Ecclesiastical Preferment void by Death or Cession, than by Deprivation: but our present Circumstances are such, as ought to over-rule all Niceties; the mischiefs of such a Refusal being so intolerable, as nothing can excuse, much less justify it, but the absolute unlawfulness of succeeding in such Preferments, while the depriv'd Bishop lives; which would be very odd for them to pretend, who have submitted to the present Government. To satisfy you in this matter, I shall briefly consider the first sort of Reasons, and shew that they are no Reasons in our Circumstances; and then examine the lawfulness of the thing it self.

Mischief that may follow on refusing.

As for the first, It may so happen, that the Person depriv'd, and the Person to be promoted, have been old and intimate Friends; and this may grate hard upon the Person to be promoted, to succeed in the Chair of one whom he loves, whose misfortune he pities, and whom he greatly values for his other many good Qualities. Now if to refuse such a Preferment, would keep my Friend possess'd of it, there were some sense in this; but I know no other case, wherein 'tis thought a Breach of Friendship to succeed a Friend in a Preferment which he has lost, and which the Law says is not, and shall not be his; when there is no suspicion of foul play in supplanting him, any more than to succeed a dead Friend. Friendship is so far from being any reason against it, that it should make it desirable to both; to one, That his Friend may get what he has lost; to the other, That he may have opportunity, if there be occasion for it, to make his Friend's misfortune more easie than a Stranger would do.

Cases when Preferments are refus'd.

Friendship for the former Incumbent no good reason to refuse.

And if Friendship be no Objection, What should hinder any Man from taking a Preferment, which another is legally depriv'd of? for I must take the Legality of it for granted now, and argue upon that Supposition. We must not take away what is another's; but surely what is not his, we may accept from those who have Power to give it. If one may give, the other may receive;

receive; for let the Objection be what it will, it lies as much against the Giver as the Receiver. They who have lost it, want it; and what then? so do a great many Men want what is not theirs, what they never had, as well as what they have lost. And must no Man take a Preferment in Church or State, which another wants? Must the good Order and Government of Church and State be sacrific'd to the Wants and Misfortunes of private Men?

*No fear
from the
former In-
cumbents,
as in 1660.*

But there is a more material Consideration, which may influence prudent and cautious Men, who are well prefer'd already. The experience of the Revolution in 1660 hath taught them, how dangerous it may be, in case such a Revolution should happen, to change their old Preferments for new ones, which may be challeng'd again by their own Proprietors. But in our case there is the least to be said for this Caution, that can possibly be in any Revolution: for it is as vain a thing to hope to secure our selves in such a Revolution by Prudence and Caution, as it is for a Man to fortify his House against the breaking in of the Sea. If he take care of the Banks, and keep out the Sea, his House will escape; but if the Sea break in upon him, he must perish with his Neighbours. If there ever be such a Revolution as can unsettle what this hath done, God be merciful to this miserable Nation; the prudent and the cautious Sinner, and the zealous Defenders of the present Government, will fare much alike: nay, however they may flatter themselves, the depriv'd Bishops will not long triumph over their new Successors.

*Passion and
Mistake
the only
reason of
Refusal.*

Thus in some Cases it may be a good Reason not to do a very lawful and innocent thing, if it be greatly mistaken and misrepresented, and give a general Offence and Scandal: But when it appears, that there is nothing but Mistake and Passion, and private Interest or ill Designs on one side, and a real Scandal, and great and publick Mischief on the other; no wise Man will deliberate long which side to take. None but the Enemies of the Government can take offence at any Man's succeeding the depriv'd Bishops; and I think those who have submitted to the Government, and sworn Allegiance to their present Majesties, ought not to be concern'd at that: They have offended these Men already, and are no better in their Opinion than perjur'd Rebels; and all that they can now gain by humouring them, is to be flatter'd, and to be laugh'd at. They may for a while give them some good Words, as our Dissenters did those honest Men, who, as they thought, conform'd against their Consciences; but they will either secretly abhor them as Knaves for swearing against their Consciences, or despise them as Fools for refusing Bishopricks. And this is no very good reason for a wise Man to court their Favour.

*The Scandal of
such a Re-
fusal.*

But on the other hand, what an unpardonable Scandal does such a Refusal give, both to the Enemies, and to the Friends of the Government, and to the Government it self?

Whatever may be pretended, the World will not believe that Doctor B— refus'd a Bishoprick, but either out of Fear or Conscience: The first calls in question the Stability or Continuance of the present Government; the second the Authority of it. Now this confirms the Enemies of the Government in their opinion of the unlawfulness to submit to it, and encourages them to attempt its overthrow; it weakens the hands of Friends, and makes them cautious of embarking in a sinking Interest, and fills them with new Jealousies of the lawfulness of it: and what just Offence this must give to the Government, I need not say.

The Truth is, were I not better persuaded of the good Inclinations of their Majesties to the Church of *England*, and the general Inclination of the Nation to support the Government, I should dread what might be the fatal Consequence of such a Miscarriage as this both to Church and State.

*Advantage
it gives
Enemies.*

There are always too many, who are glad of such an opportunity to reproach the Church, and to possess their Majesties with an ill opinion of the Clergy, notwithstanding their Oaths of Allegiance; and I confess this gives too great an advantage to such Misrepresentations, were not the Zeal and good Affection of wiser Men too well known to be suspected: and then I hope a single Instance of Folly can do no great hurt; for that is the softest Name I can give it, on which side soever I view it.

This plainly proves, that supposing it lawful to have taken the Bishoprick, no other Consideration whatsoever can justify the Refusal in our Circumstances; and I know not how to suppose that Dr. B— could think it unlawful.

He submitted to the Government, and took the Oath of Allegiance as early as any Man; and never, that I heard, had the least scruple about it: and yet this was the time to have been scrupulous, if he would have been so; for it seems a little of the latest, when he is become a sworn Subject to King *William* and Queen *Mary*, to question their Authority to make a Bishop. And if the former Bishops were depriv'd, and new Bishops made, by such an Authority as he can swear Allegiance to, I cannot understand that it can be unlawful to accept a Bishoprick from the hands of those whom he owns, by his swearing Allegiance to them, to have Authority to give it; for this is an Authority which belongs to the Imperial Crown of *England*.

The Dr's Case.

Besides this, Dr. B—— was one of those, who by Commission from the Dean and Chapter of *Canterbury*, hath exercis'd Archi-episcopal Authority, during the Vacancy of the See, by the Deprivation of the A. B. as it is express'd in the Commission; and I take this to be altogether as unlawful (if either of them were unlawful) to seize upon the Authority of the A. B. upon the account of his Deprivation, as to take the Character, and exercise the Authority of a Bishop in the See of a depriv'd Bishop. To receive the Consecration of a Bishop, I suppose, is not the thing he accounts unlawful, nor to exercise the Authority of a Bishop; and then there is nothing he can think unlawful, but to exercise the Authority of a Bishop in the See of a depriv'd Bishop: and it seems to me as unlawful for a Presbyter to do this, as for a Bishop to do it, unless a Presbyter may do it without the Revenues of the Bishoprick, but a Bishop must not do it with them. But this can be no Ecclesiastical Scruple, as so great a Canonist must needs know; for if the Civil Power cannot dispose of such Temporal Matters, it can do nothing.

He uses Jurisdiction in the See of Canterbury.

But whatever he thought, his refusing a Bishoprick upon great Deliberation, after an appearing forwardness to take it, hath tempted People to think, that he judges it unlawful. And to let him see, how inconsistent this is with his owning the present Government, and his exercising the Archi-episcopal Authority, I shall explain the meaning of it to him, which I believe he never thought of.

His Refusal inconsistent with his Actings.

If it be unlawful to succeed a depriv'd Bishop, then he is the Bishop of the Diocess still; and then the Law that deprives him is no Law, and consequently the King and Parliament that made that Law, no King nor Parliament: and how can this be reconcil'd with the Oath of Allegiance, unless the Doctor can swear Allegiance to him who is no King, and hath no Authority to govern?

If the depriv'd Bishop be the only lawful Bishop, then the People and Clergy of his Diocess are bound to own him and no other; then all the Bishops, who own the Authority of a new Arch-bishop, and live in Communion with him, are Schismatics; and the Clergy, who live in Communion with Schismatical Bishops, are Schismatics themselves; and the whole Church of *England* now establish'd by Law is Schismatical, and Dr. B—— himself a Schismatick, if he communicate with it. And thus we have no Church, or only a Schismatical Church, as well as no King: and all that Dr. B—— has got by refusing a Bishoprick, is to prove himself a Schismatick, if he live in Communion; or to make a Schism, if he separate from it.

Inferences from his Refusal.

Now will the Doctor say this? or if he dare not say it, will he dare to think it? And yet if the depriv'd Bishops, tho they retain their Episcopal Character, have no Authority or Jurisdiction in the Church of *England*, then it must be lawful for other Bishops to exercise that Authority, which they have lost; and to succeed in the Government of such vacant Sees, unless such Churches must be depriv'd of the Episcopal Authority, while their depriv'd Bishops live.

And this brings me to consider the lawfulness of the thing it self, which is so evident when set in a clear light, that it will admit of no dispute with Men of Sense.

In a late Letter said to be sent to Dr. B—— and now printed on the Backside of a scandalous Rhyming Libel upon his Sermon of *Restitution*, he is threatned, in case he should accept the Bishoprick, with the Fate of those Ecclesiastical Schismatical Usurpers, Gregory and George of Cappadocia, who unjustly invaded the See of Alexandria upon the deposing of Athanasius the Orthodox Bishop there. What Effect this might have on Dr. B—— I know not; but those who have us'd themselves to good Sense, as well as to antient Canons, easily perceive a vast difference between these two Cases, as will presently appear. But to represent this matter plainly and easily, I shall briefly state the Case, and that I believe will satisfy understanding Men without disputing.

The Dr. said to be threatned.

*Church
and State
incorpora-
ted in
England.*

1. First then in a Christian Nation and Government, the Church is incorporated into the State, and the Sovereign Power has a Supremacy in all Ecclesiastical Causes. To deny this, is either Popery or Fanaticism: It is plain, the Reformation of this Church was founded on this Principle; and it is the constant Doctrine of our Articles, Homilies, and Canons, and they are our Rule consider'd as Members of the Church of *England*.

2. This Supremacy, tho it do not extend to the Administration of Holy Offices or Church-Censures, yet it reaches the Persons and external Jurisdiction of Bishops, and the other Clergy, and the regulating and ordering the Externals of Religion: As the making and deposing Bishops, when there is just Cause for it, belongs to the Supremacy; which Authority was exercis'd by the *Jewish* Kings over the High-Priest himself. And to resolve all this into a mere Ecclesiastical Authority, is to set up a Pope, or a Presbytery, or a National Synod, above the Supreme Power: and we may as well say at this day, that the Supreme Power has no Authority to make a Bishop, because by the antient Canons and Practice of the Church, a Bishop ought to be freely and canonically elected by the other Bishops of the Province, or by the Clergy and People of the Diocess; as that it cannot depose a Bishop from the exercise of his Episcopal Authority within their Dominions, without a Synod or Council.

*Offence a-
gainst the
State ju-
stifies De-
privation.*

3. When a Church is incorporated into the State, an Offence against the State is a just reason to depose a Bishop from the exercise of his Episcopal Authority in such a State: especially if such Bishop or Bishops wholly disown the Authority and Government of the State, and refuse to submit to it. The denial of the King's Supremacy in Ecclesiastical Causes, was thought a good reason to depose Bishops; and to deny their Civil Authority, is somewhat more than that. This is as certain and evident, as that the Church is and must be incorporated into the State: for if Bishops, who oppose and disown the Authority of the State, must not be depos'd from the exercise of their Authority in such a State, then the Church must be divided from the State, and be independent on it; such Men may be Bishops of the Church who are no Subjects of the State: which is a contradiction to the very Notion of a Church incorporated with the State.

*State De-
privation
different
from Ec-
clesiastical
and Cano-
nical.*

4. And therefore we must distinguish between an Ecclesiastical and Canonical Deposition of a Bishop for Heresy, or other Ecclesiastical Crimes; and a State Deprivation. The first concerns the Character, and Ecclesiastical Communion; it is the Censure of the Church, which concerns him as a Bishop: and when it is ratifi'd and confirm'd not only by a Provincial or National Synod, but by a general Council, such a depos'd Bishop is no longer a Bishop of the Catholick Church, and no Christian must communicate with him as a Bishop. But a State Deprivation does not concern the Character; such a Man may be a Bishop of the Catholick Church still, if he do not fall under Church Censures for Heresy or other Crimes: but it only concerns the Exercise of his Episcopal Authority in any Diocess within the Dominions of that State, or enjoying any Ecclesiastical Benefice in it. And if we will not allow the Supreme Power of a Nation to judge who shall be Bishops in their Dominions, and enjoy the Revenues of the Church, which are the Gift of the State; you leave the Supreme Power no Authority or Jurisdiction over Ecclesiastical Persons.

*The Case of
Athana-
sius and
George of
Cappado-
cia.*

5. And this makes a great difference between succeeding an Orthodox Bishop uncanonically depos'd, and succeeding an Orthodox Bishop depriv'd by an Act of State. If a Bishop be depos'd by an Heretical Synod upon false Suggestions, and publicly known to be false and malicious, and be own'd and acquitted by a Council of Orthodox Bishops, it is Usurpation to invade his See, a breach of Catholick Communion, and a Schism in the Catholick Church; which was the Case of *Athanasius*, and *George of Cappadocia* who succeeded him. But if a Bishop otherwise Orthodox, is guilty of such an Offence against the State, that he is depriv'd of the Exercise of his Episcopal Office, neither the Faith nor the Communion of the Church is concern'd in it, but only the Authority of the State, which obliges both the Clergy and the Laity in such cases; and when neither the Catholick Faith nor Catholick Communion are concern'd, it can be no Ecclesiastical Offence to succeed in such a Bishoprick, but a due Submission and Compliance with that Authority, to which the Church in a Christian Nation ought to be subject.

The reason why these matters are not so accurately distinguish'd by some Men, is because they were not at first distinguish'd when the Empire became Christian, and

and the Church was at first incorporated into the State. The Zeal of the Christian Emperors for the Service of the Church, and that great Opinion which at that time they deservedly had of the Piety and Prudence of the Governors of the Church, made them leave the Government of the Church in the same state they found it in, when the Church was a distinct Society from the State; and in consequence of this, they reserv'd all Causes relating to Bishops to the Cognizance of their own Synods, without distinguishing between Offences against the State, which properly belong to a civil Cognizance, and those which were of a pure Ecclesiastical Nature. This soon created great trouble to Princes, and by degrees grew into the omnipotent Power of the Bishop of Rome, which domineer'd over Emperors themselves, and set the Church above the State.

The Practice of the first Christian Emperors.

The Reformation of our Church began with the Reformation of this Abuse and Church-Usurpation, and restor'd our Princes to that Supremacy, which both the Laws of God, and the Reason and Nature of Sovereign Power gives them over all Persons, in all Causes, as well Ecclesiastical as Civil: And now an Offence against the State is as just a Reason for a State-Deprivation by the sole Authority of the State, without the Authority of Synods or Councils; as Heresy and Schism, and other Crimes are of Ecclesiastical Censures.

Reformation where it began.

This Authority, as I observ'd before, the Jewish Kings exercis'd even over their High-Priests, as Solomon depos'd Abiathar for following Adonijah to make him King, and plac'd Zadock in his stead; which was a pure State-Quarrel, and done by his sole Authority, without consulting the Sanhedrim in it. Thus when Judea was under the Government of the Romans, they chang'd the High-Priests every Year; tho by the Institution of God it was for Life; and this in our Saviour's Days, who never reprov'd them for it, nor separated himself or his Disciples from the Communion of such Schismatical usurping High-Priests, who succeeded in the places of their living Predecessors without a Canonical Deposition. The Grand Signior at this Day makes and unmakes the Patriarch of Constantinople at pleasure, and no Man blames the Patriarch who succeeds.

Practice of the Jewish Kings.

Dr. Sherlock in his Preface to the *Case of Allegiance*, took notice of this as matter of Fact, without enquiring into the Reasons. His Answerer had nothing to return to it, but by denying the legal Authority of this Government; which is just nothing to the purpose: For if a legal Government, by their Authority and Supremacy, can depose Bishops, and promote new ones; then all their Arguments against succeeding in the Sees of such Bishops as are not Canonically depos'd by an Ecclesiastical Authority, are utterly lost; and besides that, if this Answer be good, no Man ought to question these new Promotions, who owns the Authority of the present Government.

Objection remov'd.

The Truth is, the same Objections which are now made against the Promotion of these new Bishops, are equally strong, and as eagerly urg'd at this day by the Papists against our first Reformers. For they were promoted to Bishopricks, while the former Popish Bishops were living, and not Canonically depos'd by any Act of the Church, but only by the Authority of the State: and their denying the Supremacy of the King, was one, and none of the least of those Doctrines, which they were depos'd for; and yet that only rejects the King's Ecclesiastical Authority: and therefore as it is only an Offence against the State, so it is a much less Offence, than utterly to renounce their Authority in Civil and Ecclesiastical Causes, as our depriv'd Bishops now do.

The same Arguments are us'd by the Papists.

I shall not need to enlarge on these things, which are plain and obvious at the first Proposal: If you have any opportunity of seeing Dr. B——, desire him to consider again of it; and though he may repent too late to do himself any good, yet if he discover his mistake, common Justice to the Government, under whose Protection he lives, and to Their Majesties, to whom he has sworn Allegiance, and who had plac'd such a Mark of Favor and Honor on him, had he known how to value it, obliges him publicly to own his Mistake, which is the only recompence he can now make. I am,

May 20. 1691.

S I R,

Your humble Servant.

S O L O-

SOLOMON and ABIATHAR :
*Or the CASE of the Depriv'd Bishops
 and Clergy discuss'd ;*
*Between EUCHERES a Conformist, and
 DYSCHERES a Recusant.*

The P R E F A C E.

Good Reader,

The Author's concern for the ejected Clergy.

I Am a Man distressed at the present Change of Bishops, that have look'd on the Fate of the depriv'd Fathers as an Eclipse to the Church, a Reproach to the Nation, and an Instance of dangerous Consequence. I have had hard thoughts of them that accepted their Sees, the Chapters that Elected, and the Bishops that Consecrated them, without any Remonstrance or Intercession for the Ejected ; and have prepar'd my self to lose all rather than to acknowledg the Superinduced. Yet fearing on the other hand, lest I should, through an unguarded Zeal, be too censorious upon the Consciences of many admirable Men concurring hereunto, I resolv'd to discuss the Cause to my utmost, according to the best Notices I could remember or collect ; the which are here digested into a Dialogue, in which I have set forth the Arguments of most weight that occur to me, to the fullest Advantage of either side, according to the Sense of the opposite Parties. In which, where either Dialogist remains unanswered, there I my self am at a loss, and know not how to make a satisfactory Reply to my own Conscience. This is therefore to beg the learned World to succour me in these Defects : And because the Depriv'd have not the privilege of the Press, if they on their part will give in their Corrections or Informations to my Editor, I shall receive the Favour with all Gratitude, and do promise them all just Secrecy : The Design being first to be enabled and instructed hereby what to do to quiet my own Conscience, which is dearer to me than all worldly Interests ; and secondly to provoke the Learned to offer such Discourses hereupon to the Publick, as may settle others that are under the same Dissatisfactions with my self.

May 20. 1692.

Solomon and Abiathar, &c.

Eucheres.

B Rother Dyscheres, I have undertaken this Visit on purpose to invite you next Wednesday to a small Treat, where you will meet with several of your special Friends, among whom I promise you a very hearty Welcome.

Dyscheres. I am very sorry that I cannot answer so kind an Invitation, that Day being a Fast-day, on which we that are ejected as Offenders, with our constant Adherents, do solemnly humble our selves before God to avert his Displeasure, provoked by the deplorable Disloyalty and Schism of the Nation, in rejecting the true King, and the sincere Bishops and Clergy, for their bounden Conscience and Loyalty.

alty. 'Tis surely, Brother, a time for Sackcloth and Ashes, and not for Diversions, since the Glory is departed from *Israel*, and the Light of God's Countenance is gone from us.

Eucher. I do as heartily bewail all the Evils that have happen'd in this Nation, on occasion of this great Revolution: but when we consider, that in the midst of mens Impieties, the Goodness of God hath not been cessant, but (as his way usually is) out of the Evils of Men hath produc'd a most eminent Good in the Redemption of his own People and faithful Children, and this endanger'd Church, from the Inundations of Popery and Bondage; the Innocent, as they are to deplore the National Impieties, so are still oblig'd to sing the Songs of *Sion* in this yet happy Land, for that God hath not forsaken, but visited his People with a great Salvation, in not leading us into Temptation, but delivering us from the Evil. And it is to you a greater Infelicity than your Deprivations, that you have not concurr'd with us in these sacred Blessings, Joys and Exaltation.

Dyscher. As if the present State were not worse than a Deluge of Popery! For then the Church would have sav'd her Integrity, tho not her Ease. Now the Daughter of *Sion* is become an Harlot; the generality of her Children apostate and unchurch'd; and the Faith and Communion is with a few, who have rather chosen to suffer Affliction as the People of God, than to dwell in the Tents of Unrighteousness. Non-Jurors
severe Gen-
jurers.

Eucher. Zeal is an excellent Flame of Spirit, while it is under Rule and Moderation, but otherwise there is no Wildfire more raging. And such a kind of Fury it is to charge our Submission to the present Constitution, to be an Excommunication *ipso facto*, even before it can be prov'd to be a Sin. For admitting it to be a Sin, yea a crying Sin, yet every such Sin doth not *ipso facto* unchurch single Persons or publick Societies; most certainly they do not, if the Principles of Doctrine or Opinion, whence these Sins receive encouragement, do not destroy the Churches Fundamentals or Structure, which our Conformity certainly doth not: But an authentick Act must pass in order to a state of actual Expulsion. Nay, we assert the Church of *Rome* still to be a Church, notwithstanding her great Breaches made upon the Beauty of Holiness; nor do we unchurch the *Eastern* Churches, notwithstanding their great Disorders and Confusions. And can this Change in our Church parallel the Corruptions of these, who having no Judg but God, do yet remain Churches in all their Pollutions? Vindication
of the Wil-
liamites.

Dyscher. Admitting then that you are not actually unchurch'd for want of an Ecclesiastical Judg, yet if your Apostacy merit it, so that good Men may not maintain any religious Communion with you, without danger of encouraging you, or defiling themselves, or offending other mens Consciences; this is enough to justify our Succession. For hereupon we break off from the Communion, as well as Sovereignty of the *Roman* Church, tho in her we own the Essentials of a Church. Object. of
the Non-
Jurors.

Eucher. Tho our Church justly and absolutely rejects the *Roman* Monarchy, yet she will not refuse any lawful Communion or Correspondence with it in any good Ecclesiastical Negotiations consistent with Integrity, saving still a publick Remonstrance to all her Pollutions. So you should communicate with us in all that is lawful, especially since 'tis possible, and by you fairly supposable, that (if we do amiss) we do so through simplicity, and want of understanding, which you might easier heal by Accommodation, than by a severe Rupture and Separation. Answ.

Dyscher. We carefully observ'd this Method, while you only conform'd to the present temporal Powers, but did not eject your Fathers and Brethren from their Stations in the Church; but now you have broken the very essential Bonds of Ecclesiastical Communion, and begun the Schism, in admitting Intruders into the room of them, who were ejected only for practising the Doctrines of the Church. Object.

Eucher. If their Ejection be only for adhering to the Doctrines of this Church, or the Laws of God, I will allow you that they are persecuted by the Church as well as the State: But this will require a very clear proof, e're we can be justly charg'd with so great an Impiety. Sol.

Dyscher. This Church hath ever taught us to preserve an untainted Loyalty to our lawful Sovereigns, which with us come in by Inheritance; and accordingly our Oath of Allegiance binds us to the King, his Heirs, and [lawful] Successors; and this Obligation ceaseth not, till Death or Resignation dissolves it: Neither of which happen'd in this Revolution. Church
Loyalty.

What vacates our Allegiance.

Eucher. If by Resignation you mean a formal voluntary Act and Deed, passing away the Title Royal, then I deny that Death only, or Resignation, vacates our Allegiance: for many publick Authorities are void by mere Cession, and Desertion; which is indeed in Law equivalent to a Resignation. And such a Cession here happen'd, which the Estates in Convention judg'd a virtual Abdication of the Sovereignty; and of this (being a Point of Law) they were to us at that time, and in that juncture, the most competent, authentick, and final Judges; which we are the more to submit to, since the Kingdom hath ratify'd their Proceedings in a second Parliament. And tho King *James* abroad condemns them, yet that is no Argument either that they were unjust, or inauthoritative. 'Tis granted that this Church preaches up an indispensable Loyalty to the Sovereign, during the Tenure of his Sovereignty: but when a King is fled from his Throne into Foreign Dominions, or doth not exert any Royal Power or Presence to his People, the Estates of this Land are the supreme Domestick Judges upon the Tenure of the Sovereignty; which is not to make them Judges of the King's Person, but in the want of his Person, of the State of the Kingdom, and the Rights of the Nation, in order to settlement. Nor is it a just Exception to deny the Authority by which they sat; for by what Authority was that free Parliament call'd, or sat, that voted in King *Charles* the Second? 'Tis prodigious peevishness to require a King's Presence, or Commission, when he is gone, and hath left all in Anarchy. In such Confusion, howsoever they come together, they are the supreme Council of the Land. And yet by the Practice of all Nations, and the Reasons of Peace and Settlement, the Estates of any Nation, being invited by a victorious and unresisted Power, may come together and treat with him that thus calls them, tho he hath no antecedent Authority (strictly taken) to call them. So that the Churches Loyalty is to follow the Civil Judgment concerning the Object of our Loyalty, and the Tenure of Sovereignty.

Dyscher. Supposing them then, in a state of Confusion, proper Judges of the Tenure of Sovereignty, which they determin'd abdicated by King *James*; yet how could they pervert the Hereditary Law and Rule of Succession, that is Fundamental to this Crown?

Hereditary Succession maintain'd.

Eucher. I answer hereunto, That the general and ordinary Rule of Succession to this Crown is Hereditary, and in this we are very happy against the dangerous Consequences of ambitious Competitions: But in extraordinary Interruptions and Convulsions of State, against the ordinary Course, our Laws and Constitutions do allow the Estates such a King as can actually be had for the Time being, till the ordinary Rule can be fairly recover'd; and in this also we are equally happy if we would but know or see it. This in Fact is evident from all the History of our Succession. The Heirs Lineal have submitted to it; the many Acts of Parliament yet in force, made by Extralineal Kings, and the concurrent Judgment of our greatest Lawyers under Hereditary Kings, even since the Reformation, without any Remonstrance of this Church, or any Hereditary King, are an authentick Demonstration hereof; and Bishop *Overal's* Convocation-Book comes up to it. And my Opinion is, That in the late Oath of Allegiance, the word [Successors] was added after [Heirs] on this very self-same ground, That tho Heirs, by the ordinary Course, are the legal Successors, yet others legally may succeed in Cases extraordinary; for I will not be so bold as to say, That the Oath requir'd Allegiance to unlawful Successors. And the non-observance hereof hath been the occasion of so many Paradoxes or Absurdities in Discourses upon this Point.

Dyscher. What! Can he be legal that thrusts out the legal King, or legal Successor?

How War thrusts out a legal King.

Eucher. One King by a legal War, may thrust out him that, till he was thrust out, was legal King of his own People: For the first offending Prince loses not his Sovereignty to the Offended merely by the Offence, till actually thrust out by the Offended. And even an unjust Potentate, tho he cannot, according to legal Justice, out a King against whom he hath no legal Cause or Right of War; yet if he doth do so, and the subject People cannot help it, and he enforce himself upon the People for a New King; our Laws in this concur with the Laws and Practice of all Nations, in allowing our Estates to determine for us in such Exigences, as is manifest in the long Contentions and many Turns between the Houses of *York* and *Lancaster*; and the Sin shall only lie on the Injurious, and not on them that submitted to an inevitable Fate of things. And yet in our Case, upon the Cession of King *James*, the Hereditary Succession was not violently broken, but alter'd by Consent of the next Heirs antecedent to the Prince of *Orange*; which shews, that the two next

Heirs

Heirs judg'd that their Father had effectually deserted the Crown, and were content, for the preservation of the Nation against the Power of *France*, to admit before them a Prince of the Blood, whose great Interest abroad, and whose Personal Abilities of Conduct in Counsels and War, might be a Wall of Defence, as well to the true Royal Heirs, as to the Religion, Rights and Liberties of the People. Upon all which put together, I think we are bound by the old Laws, and Oath of Allegiance to the King, his Heirs and Successors, to pay Allegiance to King *William* and Queen *Mary*; and that 'tis a breach of those Laws and Oath to deny it them.

Dyscher. But suppose the Violence done to the rejected Prince be in it self essentially unjust, and unnatural, and contrary to the Moral and Eternal Laws of God and Righteousness; can humane Compacts ratify a Wrong, and justify or confirm what is essentially injurious? And must even the Priests of the most High God consecrate and confirm such Rapes by Oath, and Religious Sponsions?

Eucher. What would you infer from hence?

Dyscher. Perhaps the depriv'd Bishops and Clergy, considering the Relation their present Majesties stand in to King *James*, and the Subjection due from all Natives in this Kingdom, as well in as out of Parliament, may think this a breach of the Moral Laws of God, and not to be confirm'd by their Oath.

Eucher. Then first I answer, The internal Immorality of all Actions must be carefully distinguish'd from the Civil Consequences of them. Now the Iniquity is not to be justify'd, but the legal Consequences may be admitted, even upon Oath. Wars and Victories are many times unjust, yet they that suffer the Injury, lawfully submit to the unlawful and injurious Demand of Submission, as in Piracies and other like Tyrannies. A Son by fraudulent Arts gets Judgment in Law, and seizes his Father's Estate and Body by Execution, and starves his Father in Prison. This Man's Immorality is damnable; yet the Judges, Sheriffs, and the other Officers, are innocent, because their Offices are not concern'd in the natural Relations or Duties, but only in what is of civil Importance and Cognisance. A Lord of a Manor (to which adheres a Court Baron) is unjustly outed in Law by his Son, to the certain knowledg of several Reversioners. These, when the Estates revert to them, must be sworn to the Homage and Fealty of the Lord that is in by Law: Must these Men refuse Homage, and lose their Estates? or may they swear it to the actual Landlord, who is visibly Legal, tho not honestly Rightful? I for my part must determine for the Swearing, since all Lords and Tenants must be admitted for such, that are in by the Law, tho at the same time Men are to detest the turpitude and baseness of the Recovery. And in such Cases, the ejected Lord never blames the Tenants for Perjury. Upon which clear Resolution in the general, I will descend to the Particular before us, and suggest that Men should be very careful of judging others, especially Supreme Powers, and much more how they act upon such private Judgment, to the endangering the Peace of humane Societies. Which I offer, not that their Majesties Cause needs such a Shade, but to oppose the Command of Christ against Mens nimble Censoriousness. And indeed here it would be a hard Task, from the Fifth Commandment, to charge King *William* with subjection to King *James*, either upon being his Nephew or Son-in-Law, were I willing to urge, or be urg'd upon that invidious Point. And the Princess of *Orange* was in duty bound to follow her Husband's Fortune, Order and Authority, even against the Will of her Father; and this with a more plenary Consent, if she judg'd her Husband's Cause to be just, she violating no Decencies due by the Fifth Commandment to her Father, which are consistent with her Husband's Rights and Interests, and in her rightful Power to perform. As for the inward Motions and Counsels of their Majesties Minds, they are not of Humane, much less of Civil Cognisance; and 'tis fit for us to leave them to their proper Judg, that is, God. Tho if the King's Design be what his Actions apparently tend to, to spend himself for the delivery of Nations from Tyranny and Bondage, against all the Enemies of humane Liberties and Peace, he is certainly the greatest and most desirable, and will be, by God's Blessing, the most honourable and glorious Prince that perhaps ever arose since the Days of *Constantine the Great*: I am sure we feel the Blessings of his Care, for which many of us ungratefully traduce him. And so much for that. All that we are concern'd in for our selves is, not whether in moral Justice they might desire or accept this Crown, but whether this Nation might, under its then Exigences, yield it them; or whether it being yielded them by the publick Act of this Nation, private Subjects may not, or ought not to acquiesce in this Settlement, and give assurance thereof

No Immorality can be charg'd on the Revolution or present Settlement.

Relation of their present Majesties to K. James consider'd.

by Oath, or otherwise: for if we might have thus yielded in those Straits to an unrelated Prince, we may as well to the related; because the personal Relation affects not otherwise our Civils, the Settlement of which we must admit, if not as we could wish, yet as things will bear. And I ask you, Whether in good earnest you think no Settlement must be admitted, under Powers procur'd by breach of God's Commandments?

Dyscher. What if I should say, No?

No change
of Govern-
ment with-
out some
Irregula-
rities.

Eucher. Then I will say, few or no Changes of Government must be submitted to in the whole World; which Perswasion, as it is opposite perhaps to the first Introduction of armed Powers, so it must afterward assert them *de jure* unchangeable: since there is never any such Change without the breach of many Divine and Moral Precepts. Killing, Robbery, Deceit, Covetousness, false Accusations, Lies, Pretences, Subornations, Perjuries, Treasons, &c. are the usual Methods and Introductorys to such Changes; and yet when settled, all Ages, Heathen and Christian, abide by them. By our Laws, if the next Heir to the Crown kill the King (tho his natural Parent) he shall not be barred the Succession by Inheritance, tho by all moral Equity, and supposable Intentions of Royal Parents (were there no positive Constitution herein) he should be disinherited.

Dyscher. But in such Cases the King would be dead, and all his Rights and Titles with him, and the Heir without Competitor. But in our Case 'tis and 'twas far otherwise, the King being alive, and pursuing the recovery of his own Dominions.

Eucher. Then it is not the Breach of God's Commandments that incapacitates the Prince of this Crown, but the Life and Contention of King James. But if his Tenure be extinct, as it hath been publickly judg'd by this Nation, our Oath to him ceases, tho he contends never so much for the Recovery.

Dyscher. But this new Oath obliges me to act unjustly against King James's Recovery, whereas the whole World knows this Crown to be his in Right.

The present
Settlement
to be de-
fended.

Eucher. That it was his the World knows; but the World is not so knowing that it is his, neither from the moral Justice, nor civil Forms of Law. The Question of Justice depends upon the first Originals, Process, and Issues of the War; and of this there is no Authentick Judg but God between the two Princes: tho as to us this Nation hath justify'd King William's Cause, which is to conclude upon us; and as to the Forms of Law, King William is now legally invested. I do not say these things bind King James from endeavouring a Restitution, as being without the Power of them, never in Law subject to them; but they bind us to defend our selves and our present Governors under this Settlement, with the Suffrage of the greatest Laws of God, Reason and Nations.

Dyscher. But this Oath of Allegiance seems to imply an Assertion of Right to his Crown in King William and Queen Mary, since Allegiance follows the Right; and this you will yield to be a tender Point to be sworn to.

Promissory
Allegiance
requir'd.

Eucher. But first, it is certain, that this Oath expresses no Form of Affirmation concerning Right, but is purely promissory of Allegiance to the Sovereigns actually Regnant. And it is certain, that the Estates in Parliament imposing it, intended no more to be sworn, since they rejected the Motions made for an Assertion of Right: And tho that, and the ensuing Parliament, judg'd their Admission of King William and Queen Mary to be in their lawful Right, *rebus sic stantibus*, yet they bound us not to swear so, but only upon Oath to promise that Allegiance due by our Laws to Kings thus actually admitted; which I here remark, that you may not here object the Intention of the Imposer, to make us swear what they judg'd to be right. And here also I must further advertise you, that the Courts assign'd to administer this Oath, being the authentick Interpreters thereof, and the Imposers Intention, never gave an Interpretation affirmative of Right (that I ever heard of) when consulted hereupon; but on the contrary, I am very well assur'd that several Courts have given and admitted such Senses, as the most tender Recusant might have sworn to, and in which Men as loyal as themselves concur'd.

Dyscher. The Laws and Judgments of Men many times permit and require Iniquity; and the Prevarication of Courts, in the admitting Senses not intended in the Oath on purpose to elude it, is a mere mockery of God, Humane Powers, and Mens Consciences.

Eucher. Whether Courts prevaricate in their Judgments or no, private Persons cannot judg to any civil Effect or Obligation; and so what they determine must be taken for Law, till condemn'd by a Superior Court, or null'd by the Legislative.

And

And as to their inward Sincerity, God alone is to be their Judg. But supposing the Courts may warp from the design of the Oath, and the Law, on purpose to ease tender Consciences, what Prevarication is there in these tender Consciences, that religiously took care to have an innocent Sense authoritatively admitted, on which and no other they would take the Oath?

Dyscher. This was a colour pretended only to save their Estates; for if they took the Oath really, they took it in the Sense of the Imposer, and not the feign'd Intention; but if they did not take the Oath at all, then is the State beguiled by a Pretence, which is not agreeable to a Christian, much less to Priestly Sincerity.

Eucher. If these Men had made Reservations in the Oath they took, Insincerity might have been justly chargeable on them: but if they demanded of the Court the Imposers Sense, and the Court gave an innocent one, and they declar'd they took it in that Sense so given in Form of Law, and no other, they certainly did not prevaricate with the State; nay, it had been a Prevarication to have taken it in any other Sense than what the Court had given. And if they really took not the Oath as the Parliament intended, they took it as directed by their Majesties Judges, and could take it no otherwise; and if their Majesties by their Courts declar'd their Sense in the passing the Act for the Oath in favour to all innocent and tender Consciences, I hope it was no Insincerity to accept that Lenity and Ease, and at once to save their Stations, and their Consciences, and the publick Peace of Church and State.

In what sense the Oath is taken.

Dyscher. But what if a Man be persuaded of the Impiety of this whole Revolution, and thinks that the Vengeance of God will fall upon the Nation hereupon; can he in Piety swear himself a Party to those Sins, on which he expects God's dreadful Judgments?

Eucher. If Mens Minds be entangl'd in wrong Notions, they can act well no way neither with, nor against their Persuasions. But then such Men's Infirmities, how pitiable soever, must not obstruct Publick Constitutions. Now if such Persuasions be well grounded, there must be a Publick Rule of Conscience to justify them. And here I demand, what Law of God manifestly makes it a Sin, to comport with Civil Powers, settl'd according to the Forms and Laws of Nations, tho many Immoralities have led the way, and been Preparations to such Settlements? They that act sinfully to introduce such new Powers, have cause to expect God's heavy Displeasure: but they that contribute no evil to the Change, but submit to it when publickly settl'd, are perhaps one sort of the Meek that shall inherit the Earth, in yielding that active Obedience which St. Paul requires to the Powers or Authorities in being, and (a) St. Peter to the Humane Constitution. And therefore were there no other crying Sins of the Nation, this peaceable yielding to Humane Constitutions needs not be dreaded. So little ground is there for those your superstitious Jealousies.

Compliance with Civil Powers.

Dyscher. 'Tis easy for Sophistry to put fair Glosses upon foul Matters; but if K. James ever return, these Recusants will be able to make a better Plea for their Cause, than you will for yours. And tho they may be persecuted again for their Religion; yet can they not suffer as Traitors, and Evil-doers. And herein they comfort themselves, tho they are for Conscience sake kill'd all the day long, and are counted as Sheep appointed to be slain. But you! What will you say, when it shall be demanded of you, by what Authority you transfer'd your Allegiance without his Will? when it shall be objected, that you were sworn to him, not the Estates of this Realm; and he, not they, had the only Right of disposing your Allegiance?

Eucher. Upon such a Turn as you mention, I grant you good Answers may have no Reception; for Swords and Guns have no Ears: But yet a good Answer may be given, to wit, that we had his Authentick Grant for so doing.

Dyscher. That is strange.

Eucher. Did not King James, in his Declaration for Indulgence, dispense with the Oaths of Allegiance and Supremacy to all his Subjects?

Dyscher. That was an ineffectual and null Act in it self, as being contrary to Law.

(a) The ἀνδραγαθίαν κρίσις, 1 Pet. 2. 13. denotes the Acts of Settlement to be of Humane Law, Right, and Forms, tho the Authority of the Persons thus settl'd or constituted be Divine: And 'tis very harsh to understand it for Mankind.

Eucher. Must the Law then be the Rule of Civil Actions both in King and People?

Dyscher. It must so.

Eucher. Was King *James's* Coronation Oath a Legal Act?

Dyscher. It was so.

*Allegiance
limited by
Law.*

Eucher. Then by that he swore to assert unto this People their Laws, Rights, and Liberties. Which Laws and Liberties do assign our Allegiance to the King for the time being, tho extralinear. And if the Lineal Heir may hang me as a Traytor for breach of that Allegiance to an extralinear King, by which himself was awhile excluded; whether this Law be equal or no (tho I believe it is very equal) yet it is equal that the Subject should not be hanged for observing that Law, by the same Prince, who may by the Law hang him for not observing it. And they that venture so much upon their Integrity to King *James*, if they break the Laws of Allegiance to King *William*, may be hang'd by King *James* as Traytors, when he returns according to Law. A fine colour for Papists to dispatch those Protestants, that by their being intower'd, blasted all their fine Projects upon our Liberties and Religion.

Dysch. But will not this infer Subjection due to *O. C.*? was he not settl'd much more absolutely, and strongly than King *William*? And yet we see upon the return of King *Charles* the Second, all his Laws pronounc'd null, and all his Adherents liable to Punishment, and needing a Pardon. And those Churchmen were in the right, who refused the Engagement, tho by your new Doctrines, they resisted the Ordinance of God in *O. C.* to their own Damnation.

*Conquest no
Legal Title
till settled
by
Law.*

Eucher. To which I reply, First, That his Acts had no Legal Validity according to our Laws, because he was not King, and no Allegiance by those Laws was due to him. Nor yet had he any Legal Form of Settlement, according to the general Rules of Civil Laws. For mere Possession by force of Arms is no Legal Establishment in a Throne by those Laws, till it acquire a federal Admission and Homage in a Nation, either virtually by long Prescription of Publick Accordance, or formally by an immediate and publick Act of Submission by the Estates, or Representatives of a Nation. Now as *O. C.* wanted the Plea of Prescription, so neither could or did he pretend a National Contract, as having no Lords House, nor free House of Commons. On the Sense of which Defect, he so earnestly, but vainly, struggled by Art and Force to compass it. So that all the Power of *O. C.* acquir'd no Form of Right or Legal Settlement: and consequently the Laws of Allegiance to the Royal Heir were still in force and obliging; to which *O. C.* himself was by Law and Oath subject; and being so, could not be Sovereign at the same time. Upon which occasion I cannot but highly commend that Notion of Compact (which you so frankly scout) in that it gives us Lawful Right to repel Tyrants and Intruders, tho it cannot palliate Treasons against lawfully settl'd Princes. And for the further recommendation hereof, I could particularly shew, that it was the Form of Settlement in all the Kings of God's own People, admitted by God at their importunity, according to the then way and manner of the Nations. But this is a Digression, and so I forbear to say more upon it.

Dyscher. Well! Admitting these your Arguments to be true, and with you sufficiently persuasive to Conformity, what Inference do you hereupon draw against the Recusants, who have other Notions to them convincing, on which they build their Practice?

*No grounds
for Recu-
sancy.*

Eucher. First, I infer, that there is no ground for Recusancy; and Secondly, much less for Separation from us, and our Publick Assemblies, from which we do not exclude you; and Lastly, that the Church is not guilty of Sin, in admitting new Bishops and Ministers into the Places of the Depriv'd, considering the Authorities, Causes and Consequences of things, and the Temper with which the Church submits to this Ecclesiastical Change.

Dyscher. The Grounds of Recusancy to us seem real, and yours nothing but Shade and Varnish. But Secondly, admitting them to be true, yet not being obviously, but intricately so, they who cannot arrive to a Conviction by them, are certainly bound not to join in those Prayers, which recommend those unto God for Sovereigns, whom we judg not such, against him who is our Sovereign, but rank'd among the Number of King *William's* and Queen *Mary's* Enemies.

*Prayers
for K. W.
and Q. M.
consented to
by the Re-
cusant Bi-
shops.*

Eucher. But how comes this Change about? The Prayers for King *William* and Queen *Mary* were consented to by all the Recusant Bishops, and by them (for their Officers without any Prohibition) sent to the Clergy of every Diocess, and by them generally receiv'd. The Bishops were present at them, directed their Clergy

Clergy upon Consultation to use them. And thus things stood till the day of their Suspension. No blowing the publick Trumpet against Perjury; no denunciation of *Anathema* against these Prayers; but a general, calm and candid Concession, in that disputable Case, to every Conscience, to act upon its own best Light. How then comes it to pass, that we are all of a sudden Perjur'd, and Apostate, and yet have no publick Instrument, or means of Conversion or Conviction? For against this 'tis unworthy to object the danger of Persecution. When the Souls of Men, and the Churches Integrity are concern'd, there the Watchman ought not to wink, there the Men of God ought not to be silent, but first loudly forewarn, and after as loudly labour to reverse the Evil. This is the more rational, in that we do not seem *sine ratione insanire*, but have very momentous and weighty Reasons for our Conformity, which will excuse from wilful Perjury, and which are not refuted; tho where our Apologists happen to trip, they are animadverted on with all uncharitable Severity. And as to the danger of praying against King James, 'tis certain the Prayers express him not; and if you rank him among the Number of King William's Enemies, you may best know that, but we do not so: for an Enemy is one that designeth to injure a Man; and we are not sure King James doth so design against King William; and yet if he doth, 'tis lawful to pray that King William may therein vanquish and overcome him, that is, defeat him in that injurious Design; for no more can be intended in these Prayers, for we pray for no Man's, no King's Destruction, or Hurt, but for all Christian Kings, and Governors, even those against whom we wage open War.

Dyscher. But in the Service of the 29th of May there is a Prayer that voweth Allegiance to their Majesties King William and Queen Mary, and how can we upon our Principles be present at that Prayer?

Eucher. Then forbear to be present at it, tho I have been by a good Author assured, that the Recusant Bishops did not at first stick at that, but that some gave Directions and Consent to the use of it; and also, before their Suspension, deputed Persons to administer the Oath in the Execution of the Authorities, and Offices Episcopal thus deputed: which must argue, that they did not think that Ministry unlawful, or (which God forbid us in the least to suspect) that themselves were not sincere. *The Jacobite Bishops consented to the Prayers for K. W. and Q. M.*

Dyscher. You must allow Men to retract their Errors.

Eucher. And expect the Reasons of such Change, and not instead thereof an inexorable Censure upon us, for no other Actions than what themselves deliberately and long countenanc'd and authoriz'd; and in which we can yet see no harm, lest by condemning us to Penitence, they put themselves into the same Crime, and under the same Expiation.

Dyscher. But to come to the main, how do you acquit your selves from Schism, in rejecting your Fathers and Brethren, driven by the State from their Stations in the Church, for mere Conscience sake? For admitting them to be in an Error, the Error is in Points of Law, and the Obligations of Statutes, and the Oaths enacted by them, in which the Judgments of Lawyers vary with the turns of State. Have they done any positive Injury? have they violated their Innocency, or stain'd the Sanctity of their Order, that they should be cast out as Reprobate? Is Error, in entangl'd Laws, Heresy; and fear of Perjury, and the appearance of Evil, Infidelity? Such Judgment, I trust, will not pass upon them in the Day when God shall gather and bind up his Jewels.

Eucher. The Temper, with which the Church admits this, is Mild and Compassionate, and concurs not without reluctancy and great sorrow, and so is not in that respect Schismatical. Nor doth the Church judg their Consciences towards God, but with great difference, and Charity hopes and thinks the best; which Moderation I wish you could imitate under your present state. But this, I confess, we think your Principals in their practical Consequences (considering the inflammable Tempers of Men) as resent'd by the State, to be dangerous, not only in respect of Trouble but of Sin, even Schism, and Sedition both in Church and State, by the breaking of the one against the other. Which Dangers when the State presses the Church to remove, by exaundering the Patrons of those dangerous Principles and Practices, how can the Church, that thinks this demand of the State just and rational, and necessary to be yielded to, deny the Demand? For in Cases of danger from Mens Principles, the Church hath ever been wont to judg, not upon Mens personal Morals only or chiefly, but the Soundness and Tendency of the Persuasions. In which whatsoever is contrary to sound Judgment and Unity must be con- *Danger of Schism.*

*Ridiculous
Consequences of the
Non-Swearers.*

condemn'd, and the Fautors exauſtorated, how innocent ſoever their perſonal Morals be. For even ſome Mens Principles may be too rigorouſly pious, and have no other Fault; and yet in ſuch the Church diſcards the non-returning Patrons of them, when they grow up into a Flame. The Montaniſtical, Novatian, Meletian, Donatiſt, and Luciferian Rigors (not to mention ſeveral others) beguil'd many pious Men out of their Order, and out of the Church: Her Prudence always taking care to impoſe no Snare nor Yoke upon Mens Conſciences, above what the Equity of the Divine Law requires. And ſure I am, that your Maxims of Loyalty are ſuch as the State of Mankind admits not of, and are repugnant to all Civil Compoſures, and therefore diſſonant to the Laws of Chriſtianity. I will not here digreſs into Particulars; but ſuppoſing our Church that conforms, thus to judg of your Principles, can you think ſhe ought to aſſert you, in publick Conduct of Mens Conſciences, to the Diſſolution of our Peace, againſt the Command of the Sovereign Powers that are the Guardians of it? The publick Judgment regards the Tendencies and Conſequences of Mens avowed Opinions, and promotes, permits or inhibits their Courſe according as it ſees them uſeful, tolerable, or dangerous to the publick Weal; and particular Perſons muſt be content to be bounded in their Actions and Authorities by theſe Rules and Meaſures, or elſe farewel all publick Order and Peace. For ſuppoſing for once, that all Recuſant Biſhops and Clergy had been freely left to their own ſeveral Sences, Prayers, and Sermons in this preſent State, ſome would have pray'd for and preach'd up King *James*, others King *William*, others neither. Divers Pariſhes, divers Prayers, divers Sovereigns; in the ſame Churches ſome would oppoſe, and ſome applaud the Miniſter with all manner of Tumults and Diſorders. And even in thoſe Liturgies, where no King were nam'd, the Prayers would be contrary under one common Equivocation; Biſhop againſt Biſhop, Clergy againſt Clergy, Prayers againſt Prayers, Sermons againſt Sermons, and People againſt People in the publick Acts and Duties of Religion. And hence muſt follow a total breach of Sacred Union, which would ſpeedily paſs into a Civil Sedition. So neceſſary it is to ſet Rules of Uniformity, which thoſe that will not ſtand to, may (if not muſt) juſtly be exauſtorated.

Dyſcher. Why then it ſeems, you think our Deprivations not only Lawful, but neceſſary to avoid Schiſm; which we all the while charge upon you.

Eucher. Hold a little! I do not give you my own Judgment, nor yet ſimply the Senſe of the Church upon the Matter antecedent to, and abſtracted from the Will of the State. But this is the Senſe of the Church, that ſince the State, to avoid the above-mention'd Confuſions, decrees the Recuſants to be depriv'd, ſhe, that thinks the Deprivation ſimply Lawful, doth, upon demand of the Civil Powers, think it neceſſary, becauſe the Church muſt yield to the State all juſt Security to publick Peace and Order; which cannot be, if ſhe aſſert Men in Authority, whoſe Principles muſt deſtroy it.

Dyſcher. But what will you think, at loweſt, equal, if the State had not exacted Deprivation?

*What the
Author re-
quires of
the Non-
Swearers.*

Eucher. That's no great matter what I think, yet between you and me I will draw out my Soul to you. Firſt, I ſhould have thought it rational, that all Recuſants ſhould promiſe upon Oath not to diſturb the State by Word or Deed, but to abide by the Laws and Adminiſtrations of the Government. Secondly, That they would cenſure no Man for Conformity. Thirdly, that by themſelves or others they ſhould execute the Offices of their Function according to the preſent Laws, as moſt of the ſuſpended Clergy did by their Curates, and Biſhops, before the Day of Suſpenſion, by their Deputies: And upon voluntary Breach hereof, to be depriv'd by an Eccleſiaſtical Judgment, authoriz'd by Law. For Order, Peace, and Uniformity there muſt be in all, eſpecially Religious Societies; and they that will not ſecure it, muſt be exauſtorated, and not be permitted a publick Power or Advantage to promote any kind of Confuſion.

Dyſcher. Well! But admitting the Recuſancy to infer an Incapacity in the Circumſtances, and under the Reſtrictions that preſs the Church, yet they are condemn'd by an incompetent Lay-Power, in a Spiritual and Hierarchical Cenſure; to which if we ſubmit as right or regular, we then give up all to Eraſtianism, and a Biſhop ſhall be but an Eccleſiaſtical Juſtice, and a Prieſt a Church-Conſtable. To prevent which we are to ſtick to our Principles, that the Judicial Power of Civil Authority is of Secular Virtue and Operation only; but that the Spiritual Cenſures are not from the Swords of Princes, but Apoſtolic Descend and Original.

Eucher.

Eucher. What sort of Censure do you hold Deprivation to be?

Dyscher. As to the Essentials of it, consisting in a Divorce and Excision of the Priests Relation, Care, and Offices to the Souls of the People, 'tis purely a Spiritual Censure, inherent only in Ecclesiastical Judicatories.

Eucher. But you cannot forget, that the Church is incorporated into the State, from which it derives all its Temporalities; which are so intwisted with the Spiritual Functions, by mutual Constitution and Concord of Church and State, that they cannot be separated. Now hereupon the State may judg in such Matters, which appertain to it in the Church, having never quitted that Power to the Church only.

All Temporalities in the Clergy from the State.

Dyscher. 'Tis true, the Church Offices are thus concorporated with several secular external Concomitants: but the Accessory is to follow, not to lead the Principal; and 'tis a bad Incorporation wherein the Body must enslave, and not be subordinate to the Soul. I hope the Church in this Accord did not act profanely, and like *Esau* sell her Birthright for a Dish of Pottage, her Spirituals to a Foreign Power for a few secular Trifles. Rather therefore let the State resume her own, and leave the Church to her own lovely Simplicity, than usurp upon the Inheritance of our Lord.

Eucher. Will you deny all Lay-Persons a Right in all Spirituals?

Dyscher. In all Spiritual Authorities.

Eucher. Please you to define the Act of a Spiritual Deprivation.

Dyscher. Deprivation is the effectual and total Separation of a Spiritual Person from his Charge, so as to make way for the Introduction of another.

Spiritual Deprivation defined.

Eucher. Is the Interest only of the Priests concern'd in the Spiritual Charge, or are the Souls of the People also interested in the Relation?

Dyscher. No doubt the Interest, as well as the Relation is mutual.

Eucher. Are there any Causes which may dissolve this Relation, and vacate the Charge?

Dyscher. Yes; all flagitious and pestilential Sins, as Apostacy, Heresy, Schism, &c.

Eucher. Upon whom must the Punishment of the Separation fall?

Dyscher. Upon the Guilty.

Eucher. Who must execute it?

Dyscher. The Ecclesiastical Judg.

Eucher. But what if he be the Person guilty?

Dyscher. Then is he to be depriv'd by his Superiors.

Eucher. What if he hath none?

Dyscher. Then by a Synod.

Eucher. What if the Synod is to be call'd by him, or are confederate with him?

Dyscher. Then must they be left to God.

Eucher. But may not the Clergy and People, in the mean time, separate from his Authority, and his Communion, if he from the Chair recommend, or enforce his Corruptions? or must they be bound to be humbly present at all his profane Ministries?

Dyscher. I yield they may go off: But who shall judg upon the Cause?

Eucher. If there be no other superior Judg, then God is to be appeal'd to; and in the mean time they must have a Judgment of Conscience and Discretion for themselves, what to do in such incorrigible Disorders.

Dyscher. Right enough! But this Judgment of Conscience is not a Judgment of Authority, which is necessary to a total Separation, Deprivation, and Vacancy.

Eucher. Is it Cause enough to separate, and to complain to other untainted and social Bishops of co-ordinate Churches, for relief against the Spiritual Impostor?

Dyscher. I must grant that, since this is the original way of detecting, and bringing Heretical Bishops to Ecclesiastical Order, or Censure; as is evident from the most antient Church-Histories.

Eucher. What Relief can social Bishops or co-ordinate Churches give in this case?

Dyscher. If they cannot reform, they may condemn and expel the Impostor.

Eucher. Have social Bishops, and co-ordinate Churches any Jurisdiction over each other?

Dyscher. What if they have not?

Eucher. Then their Sentence is not of Authority, but only Conscience and Discretion, and of no more Validity than that of the abus'd Laity and Clergy.

Dyscher. Well! How do you determine herein?

Separation
from a Bi-
shop when
allowable.

Eucher. I judg, that the People by Judgment of Conscience for their own Salvation, and the Churches Peace, may separate from an imposturous Bishop, and address to other social Bishops to consecrate them another; which they by the like Judgment of Conscience, without proper Jurisdiction, may do upon the Notoriety and Incurribleness of the Evil. And this was very often and constantly done in the Primitive Ages; and asserted for right and just by the *African* Bishops, in the Cases of the two Churches of *Asturica* and *Emerita*, in their Epistle extant, the 68 among *St. Cyprian's* Epistles, concerning the Expulsion of *Basilides* and *Martialis*. For the Church is a great Body, whose Health subsists by cutting off all putrid Members; in which all the Members are unanimously to contribute: And if they that ordinarily should thus remove the Contagion, will not, they that can may, for the common Preservation of themselves and the whole Body. I grant you, indeed, that a proper Act of Spiritual Jurisdiction, as the Power of the Keys, Ordination, Degradation, belongs only to the Ecclesiastical Governors, and are incommunicable to the Laity: But it appears, that the Separation or Rejection of a Bishop may, on just Reasons, be legally executed by those, that have no Jurisdiction; and the Rectitude or Obliquity of such Separations is to be judg'd, not upon the Point of Authority, but of Merit. In all *Scythia* there was but one Bishop: Now, supposing him an open Heretick or Idolater, who should deprive him? Might not the People renounce him, and send to other Christian Provinces to consecrate, or send them another? And might not the Prince justly eject him, and require his People to concur in it for a new Successor?

Dyscher. But 'tis not the People, as a Church, in our Case do thus reject their Pastors for Irregularity, but the Deprivation is an Act of the Civil State as such; so that these Instances and Allegations of yours come not up to us. For they acted as Christians in the Right of Souls and Churches; this is an Act of the Civil Power as such, and that for the pretended Security of Civil Interests. Now what Right hath the Temporal Sword to act in Spirituals, and Matters purely Christian and Religious?

Kings
Power in
Ecclesiastical
Matters.

Eucher. Do not you remember, that our Church ascribes such a Power to our Kings in Ecclesiasticals, as of Right appertain'd to, and was us'd by godly Kings of God's own People, recorded in Holy Scripture? Which teacheth us that, as *David* instituted Holy Offices in the Choir, not requir'd by the Law of *Moses*, so *Solomon* depriv'd *Abiathar* of the High-Priesthood, upon a Provocation merely in Civils.

Case of A-
biathar de-
pos'd by
Solomon
according
to the Ja-
cobites.

Dyscher. To this I have many things to reply, but I will only touch those that are most pertinent to our Case. First, That the whole Institution of the *Levitical* Law was not of a Spiritual, but Carnal Sanctity, yielded them by God, somewhat in opposition, and somewhat in conformity to the *Aegyptian*, or other foreign Religions; among whom the Priesthood had been long subjected to, and perhaps first instituted by the Scepter. And herein the supreme Judgments in Civils upon the Law, and oracular Responses on Consultation about Peace, War, Temporal Actions, and Successes, were essential to the Authority of the Pontificate. And yet we find this High-Priest not subject to any ordinary Power, till Kings were also given this People after the manner of the Nations; among whom the Mitre was subject to the Crown. All which put together, makes *Abiathar's* Deprivation by a Temporal Power under that Constitution, Legal: but from the beginning it was not so. Then there were Priests, who till the Flood had the Government of the World without any Civil or Military Power; and that Priesthood was in all its Intentions Spiritual. So that when our Saviour came not only to restore, but even to refine upon the Primitive Rules, he restor'd the Priesthood from Vassalage, and founded his Hierarchy not in Princes, but Apostles; not in arm'd, but in unarm'd Powers.

Secondly, King *Solomon* did not properly and judicially deprive *Abiathar* of the High-Priesthood, but only commanded, or requir'd him to quit it on pain of death. For thus the words run, 1 *Kings* 2. 26. And unto *Abiathar* the priest said the King, Get thee to thy fields at *Anathoth*, for thou art a man of death: but this day I will not put thee to death, because, &c. Verse 27. And *Solomon* thrust out *Abiathar* from being Priest unto the Lord. The *LXXII* render ver. 26. thus; Get thee to *Anathoth* to thy field, for thou art a man of death in this very day, but I will not put thee to death, &c. A man of death, our Translation renders, worthy of death; but the *LXXII* render the words not so much significative of Merit, as a menace, according to such a Paraphrase: Get off to *Anathoth* to thy field, (for [else] thou art a

man

man of death this very day) and I will not put thee to death. So that *Abiathar* here was put to his Option, whether he would with dishonour retire from his Office or suffer Death; this latter being in the rightful Power of the King, if *Abiathar* would not yield in the former. So that *Abiathar's* Priesthood determin'd by his own voluntary Cession, not the King's Ecclesiastical Censure.

Thirdly, *Abiathar* was not guilty of mere harmless and inseparable Error, as our ejected Bishops and Clergy (if in an Error) must in Justice and Charity be supposed to be; but of wilful, active, and actual Rebellion against God and *David*, both which had before engag'd and fix'd the Succession in *Solomon*; and so he could have no Plea or Excuse of Error or Mistake, for which cause he silently submits to his Fate without Apology.

Eucher. But did not K. *Solomon* substitute *Zadok* in his stead, who was not the lineal Successor in the Line of *Abiathar*? And was not this as Spiritual and Ecclesiastical an Act as possibly could be minister'd in that Church, to which the King's substituting Bishops in the room of the Depriv'd seems parallel?

Dyscher. When a Bishoprick is legally vacant, we admit the King's Right of nominating a Successor; but we look upon his Deprivations to be Nullities, and you have not prov'd *Abiathar* out by merely such a Deprivation. But however, neither is *Zadok's* Case parallel; who after *Abiathar's* Cession came in, in right of his own Inheritance, not the King's Donation. For you must note, that *Zadok* was the Primate of the House of *Eleazar*, in whose Line was the legal Seat, and original Right of the Pontificate; but *Abiathar* was of the Line of *Ithamar*, and he and his Progenitors had come into the High-Priesthood, contrary to the first fundamental Rule and Law of Succession. Now when *Abiathar* quitted the High-Priesthood, he quitted it for himself and his Posterity, who had no Claim thereto originally Legal; whence it reverted of course to the House of *Eleazar*, and therein to *Zadok*, without any Title from the King.

Eucher. But from hence I infer, that not only in Times of Subjection to Heathen Powers, but even before they had any Kings in *Israel*, the Legal and Ecclesiastical Rule of Succession to that Pontificate had been broken, and another Constitution fix'd, without any Schism, in the Submission of the People. For thus *Eli* and his Posterity, tho of the House of *Ithamar*, enjoy'd it against all the House of *Eleazar*, to whose Primate however, by the Law, it did belong. And hence I argue, That tho Bishops be unduly put into the Place of others unduly depriv'd, the People incur no Schism by Submission to the Intruder.

Dyscher. I beg your pardon, Brother *Eucher*, in this Point, since that Rule of Succession was capable of Exception in cases of Uncleanneſs, Defect, or other Irregularities. And further, God, that made that Rule, was not himself bound by it; but had still a reserv'd Liberty and Authority of altering it: And further, This Rule did in all probability permit a voluntary Cession or Resignation; so far at least, that thereupon the Pontificate might change its Subject, tho the Resignation, or Cession, were a Sin of Profaneness. Now some one of these Causes did most probably intervene to the change from *Eleazar's* Line to *Ithamar's*; and from 1 *Sam.* 2. 30. it should be founded in God's Determination. But hence it follows not, that a secular Power can pervert a divine Rule, and ratify an opposite Constitution. What was done in the Age of the *Maccabees*, and afterward by secular Powers, against the Legal Succession of the Pontificate, as sometimes it might be excus'd for want of the Lineal Heirs or Genealogies, and sometimes condemn'd for Bribery and Usurpation, was yet admitted and ratifi'd on the *Post Fact* by God, in giving those Intruders the Spirit of Prophecy, *Job.* 11. 51. But this cannot argue for a Validity, if the Lineal Heir had been known, present and capable, and the Intruder not confirm'd by God, the Founder of that Dignity. And I must further remark, that these Intrusions, tho thus admitted by God, were Signs of a broken Church and State, hastning to its last Dissolution, and so no just Precedent for the Christian Church to follow, which is to continue to the End of the World, except we must yield to Methods of Violation, that lead to our Extinction.

Eucher. Since then you are so hard to be mov'd by Scripture Instances, what think you of the Appeal which *Constantine* admitted from the Party of *Donatus*, against *Cecilian*, after several Ecclesiastical Judgments, to which he added his own final Sentence?

Dyscher. But surely *Constantine* did not admit this Appeal, with a design to pass a Spiritual Censure himself on the Offenders, but to establish Justice in Peace, by

Constantine's Power in Ecclesiastical Matters.

Athana-
sius's Case.

Methods properly Imperial, if he should find the past Acts Ecclesiastical insufficient thereunto. And to pre-occupate you, the same I say of *Athanasius* his Appeal to the same Emperor, from the Council of *Tyre*: For *Athanasius*, in matters of Faith, expressly denies Emperors proper Judges; and he has other side-men with him therein among the Fathers.

Eucher. But in that Council *Athanasius* was condemn'd, not for Faith, but for pretended Immoralities; and in these Discussions, all wise Men may be made Judges, and Civil Powers are fit to be made such, or rather are such, in the Right of their Civil Station: and this *Athanasius* must plainly own in this Appeal.

Dyscher. But this doth not hit the Point; nor doth it infer, that *Athanasius* believ'd the Emperor, being yet unbaptiz'd, could himself either pass or rescind a Spiritual Censure, and that effectually: but he did thus appeal, either that the Emperor might punish the Offenders Imperially, or call a greater and more equal Synod for a rehearing, which afterward was obtain'd at *Sardica*.

Eucher. But if the Temporal Powers, merely as such, cannot directly pass an Ecclesiastical or Spiritual Censure; yet all the necessary Externals to sacred Offices, as Time, and Place, &c. are in their disposal; so that they may take away our Churches, Maintenance, Leisure, Liberty, and Place for publick Assemblies, which amounts to all the Effects of a Judicial Deprivation: and this perhaps is the only Power claim'd by our Kings in this, and other like Acts for Deprivation or Suspension.

Dyscher. This indeed by actual Force they may do; but this doth not dissolve our Relation to the old, nor infer a Title to a new Bishop, which is the Point before us. Nor can they justly deny those Externals to the Church, tho they may to those that offend against her, on a just Presumption of the Churches Consent, or her express Petition thereunto. And this was the Sense of St. *Athanasius*, when he deny'd *Constantius* a Church for *Arians* in *Alexandria*; and of St. *Ambrose*, when he and his Flock kept their Churches at *Milan*, against the Commands and Terrors of the Emperor *Valentinian* Junior, on the behalf of the *Arians*; and of St. *Chrysostom*, when he at *Constantinople* deny'd the Emperor *Arcadius* a Church, for *Gainas* his *Arian* General. And even in Places not consecrated, Place, Time, and Air, and Liberty to do good, are the primitive, fundamental and undeniable Rights of the Innocent: Else the Christians had sin'd, in using these for Christian Worship against the Laws Imperial. So that as yet you can fix no Spiritual Powers in secular States, that can extinguish a Christian Man's Christian Graces, Rights and Orders.

The King a
mixt Per-
son.

Eucher. But our Lawyers tell us, that our Kings are mix'd Persons, and not mere Laity; and so by a joint Act of Sacred and Civil Authority, may execute Spiritual Censures, as far as their Authority hath a mixture of Spirituals.

Dyscher. The Doctrine of Lawyers is with us no Divinity; and St. *Ambrose* and *Theodosius* the Emperor had other Senses, when the Bishop would not permit the Emperor, being of the Laity, to come within the Chancel, or the Rails of the Altar; and the Emperor acknowledg'd the Prohibition to be properly Just and Episcopal, and the Rule Ecclesiastical, which he would never more neglect during his Life.

As Christi-
an he re-
presents
the Laity.

Eucher. But tho he is of the Laity, yet being Christian, by virtue of his Christianity, and Civil Sovereignty too, he may have Christian jointly with his Civil Authorities: For as Christian, he may be reputed as Head, and Representative of the whole Christian Laity, whom you grant before at liberty to separate from an offensive Bishop, and to procure another from Social Bishops. Or if you will not admit him the alone Representative of the Laity, then you may take in the Lords and Commons, the whole Christian Legislative, into that number, or Body of Representatives.

Dyscher. This Notion, as specious as it is, will not hold; for then the King and the Legislative must be profess'd Members of our Churches Communion; but they claim this Right by virtue of the Royalty, and Legislative Power, tho the King be not of our religious Communion. They will stand by all their Acts in or about Ecclesiasticals, tho contrary to all the Canons of Ecclesiastical Integrity, or else I will not give Two-pence for the Act of Toleration. And in this Case before us, they deprive the Bishops on a pretended Title of the Civil Sovereignty, for the just and necessary security thereof; and there is the same Reason for Heathen Monarchs to deprive Christian Bishops on the same Pretensions.

Eucher. I am almost weary with struggling; and for that cause will admit, that an Act of a State Christian cannot alone vacate a Spiritual Charge by any Divine Law,

Law, or Primitive Canon or Prescription; yet such an Act receiv'd, and admitted by the Church, may from her concurrence have a just and legal Effect. And then upon this Notion the Statute of Deprivation *ipso facto* must be taken for a Law upon the Church, to eject such Recusants totally from their Stations; and the other Laws for *Conge deslire*, &c. as Commands on the Church, to admit those the King recommends to the Sees, which either are, or by the State are reputed vacant. And then the concurrence of the Church to these Laws of the State doth actually, and (upon just Causes) rightfully exauctorate those, whom the Statute dooms to Deprivation. And to say truth, in all Ecclesiasticals, 'tis the actual concurrence of the Church, that gives the Statutes an Ecclesiastical Effect and Issue; and so, tho the original of the Deprivation be secular, yet the Form is Ecclesiastical; and in this the essential Virtue thereof lies, and is properly Spiritual and Christian. Tho then the Laws require, yet the Chapters, Bishops, Clergy, and Laity, do thereupon actually reject and deprive one and admit another Bishop, &c.

Civil Act
cannot vacate a spiritual Charge.

Dyscher. Then neither the Act for Deprivation, nor the Writ of *Conge deslire* do alone vacate the Sees; and if not, by what Authority can Chapters proceed to elect, and Bishops proceed to consecrate new ones in the stead of the actual Incumbents?

Eucher. Because under all the Obligations and Causes herein, the Church ought to empt the Sees of such Incumbents, that are dangerous to the Civil State, by Acts of Separation properly Ecclesiastical, and so it doth; the Dean and Chapter of the Metropolitcal Church taking the Jurisdiction, till the Chapter elect, and Bishops consecrate another, &c.

Dyscher. Who are the proper Judges of this Duty, to eject a Bishop at the Command of the State?

Who are
Judges of
the Ejection
of Bishops.

Eucher. All Parties press'd thereunto by the Civil Powers, with a proper Judgment of Conscience for themselves and the Church, tho not of ordinary Jurisdiction over the Bishop: For when two Powers contest, and require my Concurrence, I must then judg on which side Justice lies, and to which thereupon Duty binds me; and to that I must adhere, and do my part to hinder the other Party from opposing that which I am in duty bound to. And when Chapters and Bishops thus acting, obtain the consequent Concurrence and Comprobaton of the whole Church; their Acts have as good an Authority from humane Consent, as the receiv'd Decrees of Councils, whose Validity stands or falls with the subsequent Sense of the Churches in common.

Dyscher. The silence and yielding of the Churches in common, consequent upon the Violences men admit for fear of Persecution, signifies no certain Persuasion or Conviction, that the Depriv'd suffer nothing but Justice. If our Cause had been condemn'd in your Convocations, you had brought a more specious Argument for the Sense and Censure of the Church, than this thin Pretence, which carries no Colour nor Shadow of Probability.

Eucher. Even here I will endeavour to satisfy you, tho I shall not gratify you. The general Conformity of most Bishops, Clergy and Laity; our sending a Convocation at their Majesties Precept, shews we own subjection to them, and condemns the Recusancy as an Error, which of what consequence it is, every man that thinks it an Error sees. And the silence of the Convocation under the Statute of Deprivation, argues their Opinion to be, that they were in this to yield to the State.

The Settlement own'd
by the Convention.

Dyscher. As if this Silence was not the Result of Fear and Treachery, rather than Judgment! for this we charge upon *Liberius*, and the Council of *Ariminum*, when their concurrence with the *Arians* is urg'd in defence of *Arianism*.

Eucher. Had the Convocation first stoutly decry'd the Statute, as *Liberius* and that Council at first did *Arianism*, and had upon Menaces, or Experiences of bodily Persecution, retracted their Remonstrances, then such a forc'd Compliance might have been censurable for Cowardice; but here being nothing of this, but a calm and constant quiet under the Procedures of the State, it must be resolv'd, that the Sense of the Convocation judg'd it allowable.

Dyscher. But if the Church shall yield, without any Remonstrance, to such Intrusions of Civil Powers upon the Churches Liberties, Censures and Authorities, then for Cause or no Cause, we shall be liable to Suspensions and Deprivations, according to the Tides of Humour and Temper in our Legislators, and thus fall under the Arbitrary Disposals which the High-Priesthood of the Jews suffer'd under Heathen, and the *Greek* Patriarchate now suffers under *Mahometan* Princes; a Blemish not to be endur'd by any Church, whatsoever it incurs for the Opposition.

Eucher.

What the
Church is
to judg.

What the
Bishops
may refuse.

Gregory
Nazian-
zen's pra-
dise.

Eucher. You may remember that I have yielded to you, that the Consent, Publick and Actual Concurrence of the Church, is necessary to give an Ecclesiastical Effect to Civil Ordinances in Matters of the Church. And so here the Church is to judg whether she may, or must in Duty concur or no; and hence a Right essentially belongs to it, to examine all the Causes of the Secular Demands. So that if she finds there are no grave Reasons to move the Church to the requir'd Severities, she ought to disobey, as my Lord Bishop of London well did, when requir'd to suspend Dr. Sharp *indictâ causâ*: Nay, so he ought to have done, had the King been *de jure* Arbitrary, and of despotick Power. Thus if a Prince shall trifle, and require a Bishop to hawk, hunt, play at Tables, run Races, &c. upon pain of Deprivation; tho none of these things be simply unlawful for Men in general, or for a Bishop to avoid a Persecution; yet upon neglect of such injoin'd Follies, no Man will judg a Deprivation just, nor the neglect a Sin; nor ought the Church to admit Deprivations on such improper and unreasonable Demands. Thus (a) *Gregory Nazianzen* the Father, in behalf of the Church of *Cappadocia*, tells *Julian*, That they will stand by the Bishop they had set in the Church of *Cesarea*, whatsoever Law or Violence he should offer to the contrary. And I will grant you that the Church hath this Right, against the Violence of Christian as well as Heathen Princes, since 'tis the Quality of the Cause, not the Prince, upon which the Church is to act: else under the name of Christian, many unchristian Pranks may be obtruded on the Church, to the reproach and ruin of Christianity. And whether the Church yields to, or opposes the Laws of the State justly or unjustly, must not be judg'd alone from the Rights of Civil Sovereignty, but upon the Reasons of the subject Matter in which the Concurrence of the Church is requir'd. And in our Case the Church judges it lawful and rational for her to admit the present Law of Deprivation, from the weight and reasons thereof against the present Recusancy: And our Judgment herein hath greater Foundation than those Concurrences and Acts of the Church, in the high Commissions Ecclesiastical, had heretofore in the Suspensions, Deprivations, and such like Ecclesiastical Censures of Bishops and others (in several Reigns of Reformed Princes) that were purely the Executions of a Royal Authority, delegated to the Judges, upon little (many times) and captious Exceptions, relating sometimes to Civils, sometimes to Ecclesiasticals.

Dyscher. But here the chief Delegates pronouncing Ecclesiastical Censures, were generally Bishops, tho the Assessors were several of them Lay Personages, without whose Vote or Privity nothing was to be done. And this with good Reason, the Causes censurable being many times mixt, and so likewise the Judgments, that is, partly of Civil, partly of Ecclesiastical Importance. But tho the King's Commission did give them Licence, as to Place, Matter, Form, and time of Proceeding; yet the Ecclesiastical Censures had their Ecclesiastical Virtue from the Ecclesiastical Authority of the Ecclesiastical Delegates pronouncing them, as in the Censures of Excommunication is most evident, this being plainly not of Regal, but Apostolick Authority, and the Power of the Keys, which none of our reformed Princes would assume to themselves, or delegate to mere Lay-Judges.

Case of the
Depriv'd
Bishops in
Q. Elizab.
Time.

Eucher. But what think you of the Deprivation past on the Bishops, &c. Recusant to the Royal Supremacy of Queen *Elizabeth*, by virtue of an Act of Parliament; which by their Lay Power did overbear the Episcopal, and upon whose Order herein standeth our Ecclesiastical Succession from those Bishops that succeeded in the room of the Depriv'd?

Dyscher. You must note that these Recusants were guilty of the false Doctrine of the Papal against the Royal Supremacy: Which false Doctrine had been before Synodically condemn'd in the Reign of *Hen. VIII.* and so effectually stood, tho Queen *Mary* martyr'd, depriv'd, and exil'd both the Orthodox Bishops and Clergy, for this really, as well as for other Orthodoxies. Therefore those depriv'd by Queen *Elizabeth*, were either Apostate from the Doctrine they had before profess'd in entrance into their Stations, and so were *ipso facto* irregular, and to be *de jure Cano-*

(a) Naz. in Epitaph. Patr. Ἡμεῖς, φησὶν, ὃ κερ-
τισε ποιμὴν, πάντων οὗδ' ἐπεστροφῶν ἔχομεν ὀξε-
τασίῳ ἑνα, καὶ βασιλέα, τὸ νῦν πολεμικόν, ἐκένθ
καὶ τὴν νῦν ὀξετάσει χειροτονίαν, ἣν ἐνδεσμον καὶ
φίλῳ αὐτῷ πεποιήμεθα. Ὑμῖν δ' ἄλλο μὲν τι βιδ-

ζεδαὶ βυλομύοις καὶ πάνυ ῥᾶπον. Τῆτο δ' ἐδὲκ ἡ-
μᾶς ἀφαιρεθῆσεται, τὸ συνηγεῖν ὡς ὁρθῶς καὶ διγίας
πεπεραγμένοις, τοῖς πεπεραγμένοις εἰ μὴ καὶ τῆτο
δείητε τὸ νόμον, οἷς δ' ἐμειπὼν ἀδελφῶν εἰς τὰ
ἡμέτερα.

nico deserted of all; or else they came into the rooms of Men unjustly depriv'd, and so were Usurpers, or into Places really vacant; which, for not owning by Oath and Doctrine the Regal Supremacy, they were not capable of by the still unrepeal'd Canons of the Church, and so were in truth not true Bishops, nor Ministers of the Places they assum'd. Well therefore might they deprive them of the Bishopricks, &c. that were in no Canonical Title the true Proprietors. But here ours depriv'd were all true Proprietors, under no Irregularity through Apostacy, false Doctrine, or uncanonical Deficiencies.

Eucher. You frame new Notions now, not started, nor conceiv'd then: For upon your Plea they should never have sat in that Parliament, nor have been own'd as Bishops before that Act past; but yet so they were in all their Titles. And in the Disputation at *Westminster*, in the beginning of the Queen's Reign, the five Popish Bishops were own'd with all their Titles by the Lords of the Queen's Privy Council, and by the Protestant Disputants themselves: Even as *Hooper* also owns them for such, and the whole Popish Convocation for such, in his *Epistle* that he wrote to it in the Days of Queen *Mary*. And in that station they had continu'd upon their former Installations (except only such who had offended or usurp'd the Places of Men yet in being, and expecting restitution) if they would have taken the Oath of Supremacy. Here therefore the State enacts an Ecclesiastical Deprivation; and it is all one, whether you will say on a Civil or Ecclesiastical Point: if on a Civil, then the Case is the same with ours; if Ecclesiastical also, then that Parliament entred more upon Ecclesiastical Matters and Authorities than this hath done; and yet you condemn not that Parliament as Schismatical, nor the Church admitting it as Apostate: Why then charge you this upon our State and Church now? Here is no doctrinal Point of Theology, which the State determines against the Right of the Church herein, but only a mere Question in Civils, who is my Sovereign to whom my Allegiance is by Law due: Which is a Debate, not for a Synod but a Parliament, and to whose Judgment, in pure Civils all Subjects must submit; and the Church, as such, hath nothing to do in the Decision. And Dr. *Hammond*, whom, I suppose, Men of your Principles will not censure for Schism or Disloyalty, * justifies Queen *Elizabeth's* Deprivations for that Recusancy, immediately on the Right and Power of the Supreme Magistrate to make Laws for the securing his Government, and to inflict the Punishments prescrib'd by those Laws on the Disobedient: And for this true Right he thinks all Government is concern'd. And concludes, there was no Injustice in that Act of the Queen's, which divested those Bishops who thus refus'd to secure her Government, or approve their Fidelity to their lawful Sovereign. *The Case of the Popish Bishops.*

Dyscher. The Doctor indeed thus states it; but he sticks to the lawful Sovereign.

Eucher. Are you oblig'd to enquire into the Sovereign's lawful Title?

Dyscher. Yes, surely, in order to just Allegiance.

Eucher. What, as a Christian, or a Subject?

Dyscher. Primarily as a Subject; but, secondly, also as a Christian in a state of Subjection; the Duties of which the Rules of Christianity require me to perform.

Eucher. Very well! for here your Christianity refers your Obedience to the secular Laws and Constitutions, and gives no Laws or Rules in Civils itself. And, in truth, the Church, as such, is a Stranger, and the State its Hospital, whilst she is travelling from hence to her heavenly Abodes. Now every Stranger, hospitably receiv'd, is oblig'd to all the Laws of Hospitality on his part; that is, Fidelity, and Unconcernedness in the Oeconomicks and Interests of the Hospital, and all reasonable Defence against Violences offer'd to the Master or his Family, &c. and is not oblig'd to take notice of Titles and Competitions. So the Church, as such, if hospitably receiv'd by the State, is quitted as a Stranger from Curiosities about the Civil Titles. But, as Christians are Natives, or Denisons, and so Subjects, they are to be determin'd by the Civil Laws, and Judicatories, and Constitutions; else there must be eternal Seditions, since 'tis not possible in Fact, or Law, that every single Person can have Cognizance or Unanimity. And here I will ask you one Question relating to us as a Church; Whether he that hath unjustly gotten into a full Settlement upon another Prince's Dominions, ought to succour the Church in those Dominions? *Christianity obliges to Obedience.*

Dyscher. He ought to quit them.

Eucher. This may be in most cases, tho not perhaps universally true; but if he doth not, is he oblig'd to succour the Church during his Government?

Dyscher.

Dyscher. He should, as it seems; for I know not how to say the contrary.

Eucher. What! Tho the Church refuses Subjection, and professeth Hostility to him?

Dyscher. I am so hardy to affirm this.

Eucher. The Result then is, That if the Imperial Powers be bound to cherish the Church, the Church must be oblig'd to secure them of their Fidelity: And if particular Members refuse, they are Enemies to the Church as well as to the State; and therefore their Deprivation in the Church is more rational, and perhaps (as to the actual administration of the Functions) absolutely necessary.

Dyscher. Are you at that again?

Allegiance
due to K.
W. and Q.
M. and not
to K. J.

Eucher. I pray attend, and give righteous Judgment: The Subjects of England owe Allegiance somewhere, either to King *James* or King *William*, this is certain. They then that refuse Allegiance to King *William*, reserve it for King *James*; by which at his Command they are to engage in an actual War against all Conformists as Traytors and Rebels; and this People are to be taught to do upon pain of Damnation. The Church in the mean time hath admitted King *William*, and given him Allegiance against all Hostilities. I am not here concern'd whether side is in the right Allegiance, but shall only observe, That no Priests can well execute their Ecclesiastical Functions to a People whom, at another Man's Pleasure, they are bound to destroy; to the effecting actually whereof, there wants nothing but Opportunity. I do not say, that these unfortunate good Bishops and Clergy would concur to, or promote such Butcheries; but am firmly persuaded that a Nature, better than their Politicks, would govern their Practices. But then it is certain, that Nature it self must condemn their Principles, and their very Bowels render them disobedient to their own Laws and Civil Maxims, which, if pursu'd, must expose this Nation to an utter destruction at King *James's* Pleasure: 'Tis necessary therefore, that Ecclesiastical Union comport with the Civil, in order to a just and mutual Peace.

Dyscher. Was there no way to have heal'd this Rupture before it grew so wide?

K. W. allows the
Non-swear-
ing Bishops
time to
come in.

Eucher. I cannot tell that; but the time assign'd by the Law, and the King's long forbearance to fill the Sees after the day of Deprivation, argues a willingness in the State to give Men time to consider, and to allay their Prejudices, and use means to come under the Publick shelter; of which the Restitution and Preferment of Dr. *Sherlock* is a clear Instance. But the Recusants seem against all Intreaties wanting to themselves, and a happy Coalition. They have made no Offers, no Applications, but receded further from Sacred and Civil Communion than at first they did; which Neglect must look like a Contempt at least, if not an Hatred of the Constitution. Nay, I know a Diocese where the Bishop utterly suppress'd a Petition sign'd by his Clergy, and ready to be presented to their Majesties for the Restitution of the Metropolitan, the Bishop, and the suspended Clergy of that Diocese. And I have it from a good hand, that a Motion for such a Petition was stifled in the Lower House of Convocation, upon a Report made of my Lord Archbishop *Sancroft's* Request to the contrary. The reasons of this Aversness did, no doubt, to them seem Pious and Rational, nor do I condemn them: But how far this dischargeth the Clergy in their admission of new Bishops, besides the Causes original, God must judg; and these Fathers have reason tenderly to consider, who would use, or admit no Means of continuing with us, but have left us in great Distresses for the loss of them whom we so much love, and for the Prejudices and Scandals that arise upon this unhappy Occasion.

Dyscher. The state of things is very deplorable. May the Grace of God lead us into all Truth, Wisdom, Meekness, Gentleness, Charity, and an Universal Conformity to his Holy Will in all our Actions and Sufferings; that no evil Root of Bitterness, Censoriousness or Schism, may sour or corrupt our Spirits, but that the Love of God may guide us in the midst of all Temptations; that at length, in this divided People, Mercy and Truth may meet together, and Righteousness and Peace may kiss each other.

Eucher. And let all the People say, *Amen, Amen.*

A Discourse concerning the Ecclesiastical Commission,

Open'd in the Jerusalem-Chamber, Octob. 10. 1689.

I Thought I never entertain'd a good Opinion of the *late Commission for Ecclesiastical Affairs*; yet concerning *This* (which is of a very differing Nature, and has differing Ends) I stand thus persuaded:

- I. *It is agreeable to the Laws of the Land.*
- II. *It is not prejudicial, but useful to the Convocation.*
- III. *It tendeth to the Well-being of the Church.*
- IV. *This is a fit Juncture for the putting the Design of it into Execution.*

I. *This Commission is agreeable to the Laws of the Realm.*

It is founded upon a *Legal Bottom*; for it is undoubtedly a *Right of the King* to call any number of his Subjects together to advise concerning such things as He shall think fit to propose to them. And here is no acting requir'd by this *Commission*, but only the giving of *Advice*.

It is further justified by *several Precedents* since the Reformation.

It was by a *Commission* that the *Common-Prayer Book* was compil'd (a) in the third Year of King *Edward VI.* the Commissioners meeting at his Castle of *Windfor* *. And both the *Parliament* and *Convocation* readily approv'd of it, as is manifest by the *Preamble of the Act* (b).

It was by *Queen Elizabeth's Order*, that the second Book of King *Edward* (which had pass'd in *Parliament* in the fifth and sixth Years of his Reign, and been repeal'd in the days of *Queen Mary*) was review'd in the first Year of Hers (c): Which Review being made, and upon it some *Emendation*. the Book was again authoriz'd by *Act of Parliament*.

In the Year 1559. it being resolv'd that the *Doctrine of the Church* should be set out as it had been done in King *Edward's* Time, the *Articles of it* began to be prepar'd (d). After much deliberation, they were compil'd by *Dr. Matthew Parker* Archbishop of *Canterbury*, in conjunction with Two and twenty Bishops (e). This being done, they pass'd in *Convocation* in the Year 1562. and were confirm'd by *Parliament* in the Year 1571. *Mr. Fuller* believ'd they were (f) compos'd in *Convocation*; but *Dr. Heylin* did not.

In the *Proclamation of King James the First*, intituled, *A Proclamation for the authorising an Uniformity of the Book of Common-Prayer to be us'd throughout the Realm* (g); there is mention of a former *Proclamation* giving notice of the Conference at *Hampton-Court* about Religion, betwixt *Conformists* and *Dissenters*.

I will not insist on this, or on the *Translation of the Bible*, and sundry other *Ecclesiastical Matters* done without a *Convocation* in that King's Reign: My purpose not being to dispute nicely about the Authority of all Things that have been done, but only to shew that greater Things have, without offence, and without prejudice to the Church, been formerly done, either by private Order, or by publick Commis-

(a) See the Names of the Compilers, in p. 664. of the Appendix.

* Ful. Ch. Hist. p. 386.

(b) See part of the Act in Append. p. 663.

(c) Camb. Eliz. p. 23. An. 1558. See the Names of the Reviewers in Append. p. 664.

(d) Hist. of Ref. Part 3. p. 405.

(e) See the Names of the Compilers, in Append. p. 664.

(f) Full. Ch. Hist. b. 9. p. 72. Heylin Hist. Ref. p. 158.

(g) See part of that Procl. in Append. p. 665.

sion or Proclamation, than giving mere Advice concerning such things as are fit and proper to be laid before a Convocation, which is the present Case.

At the return of King Charles the Second, the Liturgy was review'd by his Commissioners who sat at the Savoy. Reference is had to that Commission in the last Act of Uniformity; and it is by that Act approv'd (b). Since that time no Law has been made derogatory to that Power by which the King has granted this Commission.

II. Neither is a Commission, nor *This Commission*, prejudicial to a Convocation, but useful to it.

A Commission, before a Convocation meets, is not prejudicial to it: for (besides that it has been hitherto found beneficial by experience) the very nature of it shews its usefulness.

That which Commissioners do, is only by way of preparation, which saveth Time and Labour, and provideth something ready for the Convocation to go upon. In all Assemblies, that which is not to be compleated without the major part of them, is begun by a few.

It is certain, that the Methods of the two Houses of Parliament are not exactly the same with those of the Convocation, which by using its own, does not (as a late *Querist* (i) does seem to insinuate) presume to prescribe to them. But tho the two Houses have not that Method by a Commission, yet no Member of Parliament, who, either by himself, or by the Advice of private Friends, prepares an useful Bill, is by either of the Houses reprehended when he asks leave to bring it in.

For the Convocation, the first beginning of any thing that is to be done there, cannot be made by a Committee appointed by it self. For tho the Members can meet by virtue of the King's Writ; yet since the Act concerning the Submission of the Clergy (k) without the King's Warrant, they cannot legally deliberate upon any one Ecclesiastical Matter. It is therefore by some Spring without the Houses, by which the King moves, both with respect to the granting a Warrant, and to the Matters which are debated upon the Authority of it.

And if the King, who might have proceeded upon his own Judgment, or upon very private Advice in this Affair, is pleas'd to do it by so publick and solemn an Act as that is, of issuing forth an Ecclesiastical Commission, the Preparation is the more likely to be well made.

And this being but Preparation, the Convocation is not prejudg'd or limited by it. It is the subsequent Warrant that limits or enlarges their Powers, as it pleaseth a King, and not the Commission it self. The things which by virtue of it are prepar'd, are Proposals only, not Impositions.

And as a Commission in general is not a just Grievance to a Convocation, so neither is this present Commission to be so esteem'd:

Either with respect to the Power given, or to the Persons nam'd in it.

The Power given in this Commission, is no more than that above-mention'd, of Deliberation, Preparation and Proposal, express'd in these Words,——So that the Things by you so consider'd and prepar'd, may be in a readiness to be offer'd to the Convocation at their next meeting; and when approv'd by them, may be presented to Us and our Two Houses of Parliament; that if it shall be judged fit, they may be establish'd in due Form of Law.

See their
Names in
Appendix,
p. 664,
665.

The Persons imploy'd in it, are not such as may probably injure either Church or Convocation; whether we consider,

Their Office and Rank in the Church.

Their Personal Qualifications.

Or, their Number.

By Office, they are all Churchmen, and so the more likely to be skill'd in the Matters of their own Profession.

(b) See part of the Act in Append. p. 663.

(i) A Letter to a Friend, containing some Queries about the New Commission, p. 4, 5.

(k) An. 25 H. 8. Reviv'd 1 Eliz. See Appendix. p. 663.

By Place, they are, for much the greater part, such Men as will sit in Convocation, whensoever it meets, they being *Bishops, Deans, and Archdeacons*.

Their *Personal Qualifications* are such, that I may presume to say, indifferent Judges will not think them incompetent for this Affair.

It is true, they have been publicly traduc'd in a late Paper of Queries (1) as *Assuming Men*, as Men who will think themselves bound in Honour to defend what they shall have done; as Men who have *Tenderness and Moderation enough to part with any thing but their Church-Preferments*; as Men who have a Latitude to conform to a Church de facto, which has Power on its side.

These are very hard words, whosoever gave them, and proceed from a Temper assuming enough, to say no worse of it.

There is a great deal of Spite in them, but not a grain either of Truth, Justice or Charity. So far are they from assuming, that I have ground to say, They have declar'd among themselves, that notwithstanding the offer of their present Opinions, they would not conclude themselves, but reserve a liberty of changing their Minds, if in Convocation any cogent Reasons which they had not yet thought of, were brought before them. If they were such as that Paper represents them, yet why is it a Point of Honour to defend mere Proposals? And then I would know by what Instances it appears that they are truly such as they are there represented; Men * who conceal their own Inclinations till it is time to show them; Men likely to do the * Quer.p.4. Church of England a good turn when opportunity serves, and which perhaps they imagine now they have; Men ready to sacrifice their Consciences to their Honours and Preferments? They must needs have a great defect in their Memories, who have forgotten the Time when these very Men, with true Christian Courage, hazarded all that was dear to them in this World, in order to the Support of this Church, and the true Religion profess'd in it, by refusing to read a Declaration, which was (I believe) on purpose fram'd for the overthrow of our Establishment.

As to the Latitude with which they are charg'd, they did not show it when they were try'd; and now (God be thank'd) they have no temptation to it; and I fear there may be in those who are, without cause, their Enemies, a sort of Narrowness that is not more commendable.

They have indeed this Latitude in them, That provided Good be done to the Church, they would rejoice in it, tho even those who are their Adversaries should happen to have the doing of it.

For their Number, it is again * said falsely and absurdly, as well as spitefully, * Quer.p.4. That, as it may happen, our Church may be chang'd and alter'd, and transform'd by Nine Men. That Number of the Quorum does, by one, exceed that of the intire Body of those who by Order review'd the second Book of King Edward the Sixth in the First of Queen Elizabeth; for, as Camden (where above-cited) does assure us, there were join'd with Dr. Parker no more than Seven Persons; but Six, saith Mr. Fuller †, forgetting Dr. Bill; tho after Consultation with these ||, the Consent of others was to be desir'd.

Neither is it at all probable, that the Nine of the Quorum should at any two Meetings be but just Nine, and those the very same Men.

But supposing the Commissioners to be Men of ill Design, yet neither have the Quorum of Nine, nor yet the whole Thirty together, Power given them to change, alter, or transform any thing, but only to offer what, in their present Opinion, is fit to be offer'd to the Convocation to be there debated; and after such Debate to be approv'd or rejected.

I confess there are some great and excellent Men who are not nam'd in this Commission; neither have we such Hopes as we most earnestly wish we could have had of their appearing in Convocation.

But whatsoever the Cause of that may be (for it becomes not me to judg them) and whatsoever the Suggestions of the Querist are *, the Commissioners design no- * Quer.p.5. thing so unreasonable, as to fear it would not pass in a Free Convocation, if those Reverend and Judicious Prelates were present. For those Reverend Fathers of the Church have declar'd their Opinions in Conversation, That great Improvements might be made both in our Offices and Discipline, and ought in due time to be so; and particularly towards Dissenters, they solemnly told King James, ' That they wanted ' no due Tenderness towards them, but were willing to come to such a Temper as

Improve-
ments to be
made by the
Commission.

(1) A Letter to a Friend, containing some Queries about the New Commission, p. 1, 2, 4.

‘ should be thought fit, when that Matter should be consider’d and settled in Parliament and Convocation. And I am confident, they all sincerely meant the same thing they so publickly declar’d.

III. In the *Commission it self* there is no *unreasonable Thing design’d*, neither is it at all probable that the *Commissioners should pervert the good Ends of it*. But, by both, the *Support and Improvement and Well-being* of the Church is directly aim’d at.

The Design
of the Com-
mission.

The *Design of the Commission* is set forth in these words in the Body of it. ‘ *Whereas* the particular Forms of Divine Worship, and the Rites and Ceremonies appointed to be us’d therein, being things in their own Nature indifferent and alterable, and so acknowledg’d; it is but reasonable that, upon weighty and important Considerations, according to the various Exigences of Times and Occasions, such Changes and Alterations should be made therein, as to those that are in Place and Authority should from time to time seem either necessary or expedient.

‘ And *whereas* the Book of Canons is fit to be review’d, and made more sutable to the State of the Church; and *whereas* there are Defects and Abuses in the Ecclesiastical Courts and Jurisdictions, and particularly there is not sufficient Provision made for the removing of scandalous Ministers, and for the reforming of Manners either in Ministers or People: And *whereas* it is most fit that there should be a strict Method prescrib’d for the Examination of such Persons as desire to be admitted into Holy Orders, both as to their Learning and Manners.

‘ *We* therefore, out of our Pious and Princely Care for the good Order and Edification, and Unity of the Church of *England* committed to our Charge and Care; And for the reconciling, as much as is possible, of all Differences among our good Subjects, and to take away all Occasions of the like for the future, have thought fit to authorize and empower you, &c. and any Nine of you, whereof Three to be Bishops, to meet from time to time, as often as shall be needful, and to prepare such Alterations of the *Liturgy and Canons*, and such Proposals for the Reformation of Ecclesiastical Courts, and to consider of such other Matters as in your Judgments may most conduce to the Ends above-mention’d.

In pursuance of the Sense of these Expressions, it may be shewn,

That *all Churches*, in process of time, tho as well constituted at first as the Case would bear, may admit of Alterations and Improvements (a).

That our Constitution was review’d in 61, and yet, notwithstanding *that* Review, is capable of *this* which is now intended.

That what is now design’d is for its Support and Advantage, with respect both to *Conformists and Dissenters*.

All Churches
capable of Al-
terations
and Im-
prove-
ments.

1. All Churches in process of time, tho at first as well constituted as the Age and Case would bear, may admit of Alterations and Improvements. He who affirms the contrary, believes a visible Church on Earth may, in some one Age, be brought to perfection even in circumstantial Things, which vary with Time, Place, and Custom: And he uses an Argument against all Reformation from the time of the Establishment of such a Scheme. Upon this false Ground it was that (b) *Heath and Fecknam*, in the first Year of Queen *Elizabeth*, oppos’d the *Act of Uniformity*, objecting, *That these Changes were Departures from the Standard of the Catholick Church; That Points once defin’d, were not to be brought again into question; That the Church should be constant to it self: forgetting the common practice of their own Church. Ours, and every sound Church, is constant to it self in Substantials, and in the general frame of Forms of Worship; but in things of an alterable Nature it ought not to be so.*

Where Alte-
rations are
profitable
to Edifica-
tion they
are allow-
able.

Where Alterations are fit for the Edification of Christians, the real Good of them will overweigh the accidental Evil of the Surmise of the Ignorant, who may for a Week or two fancy that their Religion is chang’d: Neither is such Change and Improvement a Reproach to Churchmen. They are not fickle, who are constant in all necessary Things, and in Circumstantials affect no Change, but do it when Piety, and Peace, and Discretion require it.

(a) Artic. 34. Every particular or National Church hath Authority to ordain, change, and abolish Ceremonies or Rites of the Church, ordain’d only by mens

Authority, so that all things be done to edifying.

(b) Hist. of Ref. p. 393. l. 3. An. 1559.

The Church of Rome it self, tho she pretends to Infallibility, has not show'd a Church of stiffness against all Alterations. She has made very many, and might have made Rome al- them for the Common Good of Christendom, tho she has fail'd extremely in lows of Al- it. terations

The Roman Breviary now in use is call'd by themselves, *The Restor'd or Reform'd Breviary.* notwithstanding their pre- tended In- fallibility.

Their short Latin Service of the Canon of the Mass, has been so often varied, that it is now the least part of it self. Nay, the very Jesuits themselves in the Disposition of their Bibles in their Library at Paris (a) distinguish their Latin ones into those before and those after Correction. Breviari- um resti- tutum.

2. Our Constitution was review'd in 61. and yet notwithstanding that Review, is capable of another.

The Commissioners of that time did not add the last hand to that Work, so as to render it incapable ever after of being corrected and improv'd.

Some who have well consider'd all the Alterations and Additions then made by them (which amount to the Number of about 600.) are sufficiently convinc'd, that if they had reason for those Changes, there is equal, if not greater reason, for some further Improvements.

If they had foreseen what has since come to pass, I charitably believe they would not have done all that they did, and just so much and no more. And yet I also believe, that if they had offer'd to move much further, a Stone would have been laid under their Wheel by a secret but powerful Hand. The *Mystery of Popery* did even then work, and a Romanist has very frankly inform'd us of the Expecta- tion rais'd in that Party in the beginning of the Summer of 61. (b) 'They had 'some hopes cherished in them, of Liberty of Conscience, of the removal of the 'Sanguinary, and then of other Penal Laws, and of forty Chappels to be opened 'for them in and about the City of London. Hopes of the Papists from Anno 1661.

Much more is understood by those who have penetrated into the design of a cer- tain Paper, call'd commonly, *The Declaration of Somerset-House.*

The Enemies of this Commission do seem to grant a need of Reformation in the Canons * and Ecclesiastical Courts; and they well understand (and I wish * *Queries* from my heart their Charity were equal to their Skill) that the Book call'd *Refor- p. 1. matio Legum* was long ago prepar'd, and has from that time been very well e- steem'd, tho not authoriz'd and put in Execution.

It is true, the present Church-men have given their Assent and Consent to the last Book of Common-Prayer; but even part of that Consent is to the Preface of it, in which it is set forth that there are in Churches Circumstantial, which from time to time may admit of Alteration. Assent and Consent to the Litur- gy.

Neither can any Man reasonably think, that when they Assented and Consented to the use of the Book, as containing nothing that was unlawful, they intended to declare, that every thing in it should be unalterable.

3. For the Alterations and Additions now intended, I verily believe they will conduce to the great good of this Church, tho as it is, I am persuaded it is the best constituted Church in the World; and that the Person reflected on † as writing those words in a good mood, did publish no more than was his settl'd Judgment. Alterati- ons desir'd will prove very useful. † *Queries* p. 4.

But the best Church is not absolutely perfect in all circumstantial things, nor can it ever be made so here on Earth.

I am in part of the Opinion of the *Querist*, || that the Prayers cannot be alter'd || P. 2. for the better by any mere human Composition. This seems to be true of the Confessions at the beginning of the Service, and at the Communion, and of many other Forms: but it ought not to be said of every Collect. But the great business as to the Liturgy, is the adding to some Offices, and preparing new ones which are wanting, and the amending of Rubricks. Liturgy ca- pable of Alterati- ons.

To instance publicly in any possible Alterations and Improvements, is unseaso- nably to prevent the Commissioners and Convocation. But Time will show, by the Particulars, that this Church may receive great Advantage, and no Prejudice by that Work, which is by some so angrily, tho causelessly spoken against. They must pardon me if so near after the mentioning of them, I take notice of the French Not proper to instance yet the Al- terations or Improve- ments.

(a) Syst. Biblioth. Col. Par. Soc. Jesu. p. 17. Latina ante Correctionem. Latina post Correctio- nem.

(b) Vid. Cauf. Valefian. p. 126, 127, 128.

Papists, who have in so many of their late Gazetts revil'd both the Commission and the Persons nam'd in it. They are not apt to speak ill of a thing that would do hurt to us.

The Inten-
tion good to
Confor-
mists and
Dissenters.

Good is intended and may be done, to the benefit both of Conformists and Dissenters (a).

Conformists who purpose to continue such, will naturally be glad if the House in which they resolve to live and die, have all the strength and beauty added to it which can be given it by Commission, Convocation, and Parliament.

* Quer.
p. 3.

As to Dissenters, for such as are either against all Forms, or (whilst the Healing of our Breaches is under Consideration) go on with fresh Ordinations, or (as the Querist * relates the Story of some in Northampton) like Novatianus of old, oblige their Communicants to vow or swear upon the Sacrament, that they will never return to the Communion of the Church of England; we must leave them to God. Better things are to be hop'd from some at least of this Generation, and from many more in the next. And if the Convocation do's its own reasonable part (as I am confident it will) to make an Union among Protestants, let those look to it at whose door the Fault lies, in case the Separation continues: They will surely be left without Excuse.

IV. Now because *Things which may be done*, yet are not to be done at a time when they are not expedient; It is my Opinion, that the things design'd in the Commission should for that Reason be done now; this being a fit juncture for the pursuing the Ends of it.

† Quer.
p. 6. Q. 2.
The Com-
mission ve-
ry seasona-
ble now.

That is true which the Querist says, † and in part he makes it good by his own manner of Writing, that the *Passions of Men at this time are in a vehement Fermentation*: but it is so always in all Revolutions; and 'tis one great business of the Parliament and Convocation to allay our Heats. But he that would abate the Fever, may stay too long if he forbears to prescribe till the Blood is quiet.

|| P. 3. Q.
3.

Attempt to
be made to
unite Pro-
testants.
K. and
Q. desire
it.

House of
Lords in-
clin'd to it.

The Re-
form'd
Churches
expect it.

It is again granted to him, that the Church at this time *has powerful* || *Enemies*. I think it seldom is without them. But if it do's its part in showing a true Christian Temper, I doubt not but God will disappoint their devices.

An attempt is to be made towards an *Union amongst Protestants*, and I humbly offer those Reasons to the Consideration of better Judges, which move me to believe that *this is the time* for it.

Their Majesties have declar'd their desires of it.

The *House of Lords* have given us their Sense of it, in the *Bill of Union*. The Bill was brought down to the House of Commons, and had a Place on the Table amongst other Bills, till their Prorogation. Toleration is already granted by Statute; the Nature of which requires our utmost Application in order to the preserving our own People, and the bringing in of Dissenters, for the good of both.

The Eyes of the World are upon us. All the Reform'd Churches are in expectation of something to be done which may make for Union and Peace. Greater numbers of the *Irish* and *French* Protestant Clergy are now here, than ever were since we were a Nation. We may consult them with Ease, and not without Benefit.

No Man can be wise too late: For Wisdom would not delay what is necessary or expedient to be done beyond the due Seasons of Action. After the Year 61, tho there were sometimes Writs issued out for the meeting of a Convocation, yet no Warrant could be procur'd for the Support and Improvement of the Church, during the Reign of King Charles the Second; much less were we to expect it from King James.

Those therefore in my Opinion do not give wholesom Advice, who say, *Do nothing now*, or *As little as may be*. Little or Much is not the business, but as much as is fit. And if one Opportunity be neglected, it may discourage the Powers that offer it, from vouchsafing another.

Upon the whole Matter, I have a threefold Request to make.

Request to
Church-
men.

The *First* is to those *Church-men* to whom the Commissioners and Matters in the Commission are not fully known, and who may have conceiv'd some Prejudice against them, and the Work under their Hands, by means of any Letters, or Printed Pamphlets, containing uncharitable Misrepresentations, and sent about too

(a) Quer. p. 1. Qu. 2. Whether intended for of Dissenters, or to serve both these ends together the sake of the Church, or for the Satisfaction ther.

industriously by those who are either Enemies to Peace, or to Persons employ'd towards the making of it, or have a Zeal not according to Knowledge. I heartily pray them, that as becomes their Holy Function, they would duly consider both Things and Persons, before they censure them, and forbear judging before the Time, lest they offend God, and lead the People into an Error, out of which it will not be easy to bring them afterwards.

The *Second* is to the *People*. I earnestly beseech them not to give too open an Ear to any such Censures of things which they do not yet fully understand, and which for ought they know, may prove a great Blessing to them; nor receive ill Impressions concerning Men who, having with Judgment and Zeal, and Firmness in both, endeavour'd to support this Church in the late difficult Times, are not likely, upon any Account whatsoever, to betray it in these.

To the People not to receive ill Impressions of it.

The *Last* is to the *Querist*, whether he be of the Laity or the Clergy. I intreat him to make some Christian Reflections upon his Letter, and piously to consider whether he hath not been angry without Cause, judg'd rashly, done to the Commissioners what he would not have had done to himself, and endeavour'd to lead others into the like Offences.

To the Querist to consider his own Letter.

A P P E N D I X.

Anno 25 Henrici Octavi, Cap. 19.

An Act concerning the Submission of the Clergy to the King's Majesty.

WHERE the King's Humble and Obedient Subjects, the Clergy of this Realm of *England*, have not only knowledg'd according to the Truth, that the Convocations of the same Clergy are and always have been, and ought to be assembled by the King's Writ, but also submitting themselves to the King's Majesty, have promis'd (*in Verbo Sacerdotis*) that they will never from henceforth presume to attempt, alledg, claim, or put in ure, or enact, promulge, or execute any new Canons, Constitutions, Ordinances Provincial, or other, or by whatsoever other Name they shall be call'd in the Convocation, unless the King's most Royal Assent and Licence may to them be had, to make, promulge, and execute the same, and that his Majesty do give his most Royal Assent and Authority in that behalf, &c.

See p. 657.

Anno 2 & 3 E. 6. C. 1.

WHereof long time there hath been had in this Realm of *England*, and in *Wales*, divers forms of Common Prayer, commonly call'd the Service of the Church; that is to say, the use of *Sarum*, of *York*, of *Bangor*, and of *Lincoln*: And besides the same, now of late much more divers and sundry Forms and Fashions have been us'd in the Cathedral and Parish Churches of *England* and *Wales*, as well concerning the *Mattens*, or Morning Prayer, and the Evening Song, as concerning the Holy Communion, commonly call'd the Mass, with divers and sundry Rites and Ceremonies concerning the same, and in the Administration of other Sacraments in the Church. And as the Doers and Executors of the said Rites and Ceremonies, in other Form than of late Years they have been used, were pleased therewith; so other not using the same Rites and Ceremonies were thereby greatly Offended. And albeit the King's Majesty, with the Advice of his most intirely beloved Uncle, the Lord Protector, and other of his Highness Council, hath heretofore divers times assayed to stay Innovations, or new Rites concerning the Premises: Yet the same hath not had such good success as his Highness requir'd in that behalf.

See p. 657.

behalf. Whereupon his Highness, by the most prudent Advice aforesaid, being pleas'd to bear with the frailty and weakness of his Subjects in that behalf, of his great Clemency hath not only been content to abstain from punishment of those that have offended in that behalf, for that his Highness taketh that they did of a good Zeal: But also to the intent a uniform, quiet and godly Order should be had concerning the Premises, hath appointed the Archbishop of Canterbury, and certain of the most Learned and Discreet Bishops, and other Learned Men of this Realm, to consider and ponder the Premises; and thereupon having as well eye and respect to the most sincere and pure Christian Religion taught by the Scripture, as to the Usages in the Primitive Church, should draw and make one convenient and meet Order, Rite and Fashion of Common and open Prayer, and Administration of the Sacraments, to be had and used in his Majesty's Realm of England, and in Wales: the which at this time by the aid of the Holy Ghost, with one uniform agreement, is of them concluded, set forth and deliver'd to his Highness, to his great comfort and quietness of mind, in a Book intitul'd, *The Book of the Common Prayer, and Administration of the Sacraments, and other Rites and Ceremonies of the Church after the use of the Church of England*. Wherefore the Lords Spiritual and Temporal, and the Commons in this present Parliament Assembled, considering as well the most Godly Travel of the King's Highness, of the Lord Protector, and other of his Highness Council, in gathering and collecting the said Arch-Bishops, Bishops, and Learned Men together, as the Godly Prayers, Orders, Rites and Ceremonies in the said Book mention'd, and the Considerations of altering those things which be alter'd, and retaining those things which be retain'd in the said Book; but also the honour of God and great quietness, which by the Grace of God shall insue upon the one and uniform Rite and Order in such Common Prayer, and Rites and Extern Ceremonies to be used throughout England and in Wales, at Calice and the Marches of the same, do give to his Highness most hearty and lowly thanks for the same, and humbly pray that it may be ordain'd, and enacted by his Majesty, with the Assent of the Lords and Commons in this present Parliament Assembled, and by the Authority of the same, &c.

See p. 657.

The Compilers of the Book of Common Prayer An. 3. Edw. 6.

Tho. Cranmer Arch-Bishop of Canterbury.	Bishop of Lincoln.
George Day Bishop of Chichester.	Dr. Haines Dean of Exeter.
Dr. Goodrich Bishop of Ely.	Dr. Robertson Arch-Deacon of Leicester, afterwards Dean of Durham.
Dr. Skip Bishop of Hereford.	Dr. Redman Dean of Westminster.
Henry Holbech Bishop of Lincoln.	Mr. of Trinity College, Cambridg.
Nicholas Ridley Bishop of Rochester.	Dr. Richard Cox then Almoner to the King, afterwards Bishop of Ely.
Thomas Thurlby Bistop of Westminster.	Fuller Church History l. 7. p. 386.
Dr. May Dean of St. Pauls.	
Dr. Taylor then Dean, afterwards	

Reviewers of the Common-Prayer, 1558.

See ibid.]

Dr. Parker, Cox, May, Bill, Pilkington, Smith, Whitehead, Grindal.

Camb.

Eliz. A.

1558. p.

23.

Compilers of the Articles of 1562. M. S. D. W.

See p. 657.

Matthæus Parkerus Cantuariensis.	Gulielmus Barlow Cicestrensis.
Edmundus Grindallus Londin.	Edmundus Gwest Roffensis.
Robertus Horne Wintoniens.	Richardus Cheyney Glocestrensis.
Richardus Cox Eliensis.	Edmondus Scambler Petriburgensis.
Nicolaus Bullingham Lincolnienf.	Rich. Davies Menevensis.
Thomas Bentham Lichfeildens.	Antonius Kitchin Landavenfis.
Joan. Jewellus Sarisburiens.	Rolandus Merick Bangorensis.
Gilbertus Barkley Batboniensis.	Thomas Young Eboracensis.
Gulielmus Allen Exoniensis.	Jacobus Pilkington Dunelmens.
Joan. Parkhurst Norwicensis.	Joannes Best Carleolensis.
Edwinus Sandes Wigorniensis.	Gulielmus Downam Cestrensis.
Joannes Scory Herefordensis.	

By

By King James the First,

A Proclamation for the Authorising an Uniformity of the Book of Common-Prayer to be used throughout the Realm.

In H. Le-
stranges
Affin. of
div. Lit.
p. 6.
See p. 657.

Some of those who misliked the State of Religion here establish'd, held Assemblies without Authority, whom we restrain'd by a former Proclamation in the month of *October* last, and gave intimation of the Conference we intended to be had with as much speed as conveniently could be for the ordering of these things of the Church, which accordingly follow'd in the Month of *January* last, at Our Honour of *Hampton-Court*, where before Our Self, and Our Privy Council, were assembled many of the gravest Bishops and Prelates of the Realm, and many other Learned Men, &c.

March 5. In the first Year of Our Reign of England, &c.

14 Carol. 2.

W Hereas in the first Year of the late Queen *Elizabeth*, there was one Uniform Order of Common Service and Prayer, and of the Administration of Sacraments, Rites and Ceremonies in the Church of *England*, (agreeable to the Word of God, and Usage of the Primitive Church) compil'd by the Reverend Bishops and Clergy, set forth in one Book entitul'd, the Book of Common Prayer, and Administration of Sacraments, and other Rites and Ceremonies in the Church of *England*, and enjoin'd to be us'd by Act of Parliament holden in the first Year of the said late Queen, entitul'd, *An Act for the Uniformity of Common Prayer and Service in the Church, and Administration of the Sacraments*.

See p. 658.

— The King's Majesty (according to his Declaration of the five and twentieth of *October*, One thousand six hundred and sixty) granted his Commission under the great Seal of England, to several Bishops and other Divines, to review the Book of Common Prayer, and to prepare such Alterations and Additions, as they thought fit to offer; and *AFTERWARDS* the Convocations of both the Provinces of *Canterbury* and *York*, being by His Majesty call'd and assembl'd (and now sitting) His Majesty hath been pleas'd to authorize and require the Presidents of the said Convocations, and other the Bishops and Clergy of the same, to Review the said Book of Common Prayer, &c.

The NAMES of the COMMISSIONERS. A. D. 1689.

See p. 658,
659.

Thomas Lamplugh Lord Arch-Bishop of *York*.

Henry Compton Lord Bishop of *London*.

Peter Mew Lord Bishop of *Winchester*.

William Lloyd Lord Bishop of *St. Asaph*.

Thomas Sprat Lord Bishop of *Rocheſter*.

Thomas Smith Lord Bishop of *Carlisle*.

Jonathan Trelauny Lord Bishop of *Exeter*.

Gilbert Burnet Lord Bishop of *Salisbury*.

Humphrey Humphreys Lord Bishop of *Bangor*.

Nicholas Stratford Lord Bishop of *Cheſter*.

Edward Stillingfleet, late Dean of *St. Pauls London*, now Bishop of *Worceſter*.

Simon Patrick, late Dean of *Peterborough*, now Bishop of *Chicheſter*.

John Tillotſon D. D. Dean of *Canterbury*.

Richard Meggot D. D. Dean of *Wincheſter*.

John Sharp D. D. Dean of *Norwich*.

Richard Kidder D. D. Dean of *Peterborough*.

Henry Aldridge D. D. Dean of *Chriſt-Church, Oxford*.

William Jane D. D. Regius Profeſſor of Divinity in the University of *Oxford*.

John Hall D. D. Margaret Profeſſor of Divinity in the University of *Oxford*.

Joseph Beaumont D. D. Regius Professor of Divinity in the University of Cambridge.

John Mountague D. D. and Master of Trinity Colledge in the University of Cambridge.

John Goodman D. D. Archdeacon of Middlesex.

William Beveridge D. D. Archdeacon of Colchester.

John Battely D. D. Archdeacon of Canterbury.

Charles Alston D. D. Archdeacon of Essex.

Thomas Tenison D. D. Archdeacon of London.

John Scott D. D. Prebendary of St. Pauls London.

Edward Fowler D. D. Prebendary of Gloucester.

Robert Grove D. D. Prebendary of St. Pauls London.

John Williams D. D. Prebendary of St. Pauls London.

Publsh'd
about
March
16⁸².

The Unprejudic'd LAYMENS free Thoughts on the Subject the CONVOCATION are upon.

*The Lay-
mens con-
cern in the
proceedings
of the Con-
vocation.*

Since Laymen are to be concern'd in passing into a Law what shall be propos'd by the Convocation; and since they are like to be concern'd in their Estates, if any Disturbance arise to the State by our Divisions, I thought it might be proper enough to give some general Hints of the Sense and Thoughts of many of them, concerning these Matters; the mischievous Consequences of our Differences being not only Spiritual but Temporal. And I hope my good Intention will somewhat atone, if sometimes I transgress the Limits of my Station. Every one ought to contribute their best Endeavors to promote Peace and Unity——This I am now about is the best Peace-Offering I can make: The Widow's Mite (it being her all) was well accepted.

*The Mis-
chief of
these Diffe-
rences.*

The Truth is, that some of the truly zealous, tho less thinking Divines and Laity on each Side, and some of the more Intriguing and Designing of both those sorts, have drawn in and spirited each other into these not only unnecessary, but most pernicious Quarrels, about indifferent things.

This Fire of Contention, for at least an hundred Years, hath sometimes been kept smothering in, and sometimes *Vesuvius* like hath burst out into such Flames, as have endanger'd the whole Country round about, and never in all this time have been quite quenched. What hath been, may be again; the same Cause continuing, the like fatal Circumstances may sometime or other return: therefore let's be wise at last, and every one throw in his Bucket of Water, to try if we can thoroughly quench this almost Vestal Fire: And that we may put it out of all possibility, ever more to come to a Tryal by Battel, an antiquated and barbarous way in the Opinion of all Divines (tho I have hear'd of a Drum Ecclesiastick, that hath excited and stirred up People to these Quarrels.) But let's use proper Methods, and do nothing in Tumult and Confusion, lest, as in quenching of Fire, we obstruct and hinder the desir'd Effect of our good Intentions.

Therefore let's first leave the business wholly to the Convocation, 'tis their proper Province; the next Session may 'tis hop'd be more propitious than the last——And let us make it our humble Request to this Reverend Assembly, that they would please in good earnest to use their best Endeavors to compose our Differences. And let us also every one, in his proper Sphere and Station, persuade, entreat, and dispose one another to Moderation and Compliance.

And if all this will not produce the desired Effect, 'tis somewhat doubtful whether any Remedy can be found out, which will not be worse than the Disease. To prevent which will surely be the Concern and Business of the Convocation.

'Tis true indeed, some of the most Pious and Learned of our Church ('tis also hop'd there are such among the *Dissenters*) do earnestly labour in this Cause: And will the rest only *pray for the Peace of Jerusalem*, and not put to their helping Hand, and be stirring and active to promote it?

One can never too often recount how unreasonable a thing it is, That some indifferent things should be the chief Source and Original, from whence have risen and been continued those Disturbances which have so long craz'd and shatter'd, and sometimes even dissolv'd the very Nature and Being of our Government.

We have for these fifty Years at least, been labouring under a floating unsteady Government, tottering and reeling, first to one side, then to the other; and by alternate Repetitions, of Persecutions and Indulgences, both Parties have fallen so foul upon, and been so dash'd one against the other, that thereby both were grown so feeble and weak—that a third interloping Party (watching their Opportunity) was very near obtaining an absolute Victory over both—through the kind assistance of our two last Monarchs; the one by the underhand way of Legerdemain and *Hocus Pocus* (the proper Abbreviation of *Hoc est Corpus*) the other, by the way of bare-fac'd *HOC EST CORPUS*, at full length.

Unsteadiness gives Advantage to the Enemies of our Religion.

And while we lay thus groveling and struggling under this dismal Fate—And when we were even *become as a Prey to our Enemies*—When the Victim was just ready to be slain—Then it was our Gracious Sovereign came and stop'd the Hand—and by vast Expence, and great Hazard of Life, rescu'd us out of the very Jaws of, otherwise, inevitable Ruin and Destruction.

We must needs therefore own, there is a great Weight of Gratitude lies upon us for this so great and almost miraculous Deliverance.

Yet the Return for all this, which to his Majesty would be most grateful, is, Only that we would live in Peace and Unity amongst our selves.

An easy Acknowledgment sure, since we our selves shall receive the greatest Benefit thereby.

Hereby also we shall pay (thus easily) a part of the greatest Debt of Gratitude, that e're was due from a Nation reliev'd out of the greatest Thralldom and Misery.

Let our Gratitude therefore, next to the Divine Precept, be the chief Motive to Peace and Reconciliation among our selves; let us add also all the dismal Consequences of our Divisions—And let us also reflect and consider, That while we strive and contend about these indifferent Things to such a degree, as not only to shake, but also sometimes to overturn all our Constitutions both Ecclesiastical and Civil; we do thereby expose the Wisdom, Piety and Virtue, both of our Church and State, to the too just Censure of all our Neighbours.

And now when all these Considerations are put together, one would think, we, *being Brethren*, should strive and contend no more, unless which should first comply to, or which should first yield up these indifferent things.

Reconciliation of Differences wish'd.

Or at least, since neither Party is altogether so *guiltless as to throw the first Stone*, sure they will both join, and cast in their best Assistance to heal and fill up our Breaches.

And for our Encouragement, we are now sure we have a King and Court who will not be made Engines to be play'd, first against one Party, then against the other; by those Incendiaries, who by those Batteries hop'd to have obtain'd an entire Conquest over both.

Encouragement thereunto from the King.

We are also sure we have a King, who, in good earnest, will give all such Encouragement to this reverend Assembly, as they shall reasonably desire.

His Majesty's Charity indeed seems so extensive as to reach so far, that all such as can't comply for Conscience-sake, should be shelter'd from Persecution, so long as they behave themselves peaceably in the State, and decently towards the Church.

And this Charity is so limited, as not to give the least Encouragement to any of their unaccountable Errors or Mistakes.—And yet this (which is only true Charity) is by some censur'd as a too much siding with Dissenters.—'Tis a very unaccountable thing that a prudent well-bounded Charity (the best of Graces) eminent in the best of Kings, should by some of the best of Churches be censur'd as a Fault, especially since his Majesty hath given our Church so many repeated Assurances of his Favour and Protection.

The Members of the Convocation are Persons of the greatest Character for Learning, Piety and Prudence. And 'twas hop'd their *Moderation* would, at this jun-

Moderation hop'd.

sure, have appear'd to all Men; and that (the last Sessions) they would have made some Advance, some Step at least towards our Peace and Unity. — For, before they met, never since the Reformation, was there a more auspicious Conjunction of Hopes and Probabilities, of Pacification and Composure of our Differences. But alas, from how great Hopes are we fall'n! *The wicked one hath stoll'n in, and sown his Tares of Division amongst this best Wheat:* For no sooner were they met, but some of them divided and sort'd themselves into Parties, others (as is said) in their Writings made sharp and severe Reflections on each other (the most ready and fatal way, sure, to stifle all Overtures of Peace and Reconciliation in the very Embryo.)

However, let us not yet despair of Success, notwithstanding all these ill-boding Omens of our future Hopes: — For tho the best of Men are subject to Infirmities, yet such (and such are these Reverend Persons) soonest own and retract, if in any thing they have acted not altogether so futable to their innate Piety and Virtue.

Therefore 'tis to be hop'd, that this Recess hath been a happy Opportunity for all Persons concern'd, to search into the very secret Recesses of their Hearts, to try whether Passion, Prejudice or Interest, &c. hath not too much prevail'd last sitting: — And if so, 'tis also hop'd they have in this Interval divested themselves, and shaken off those entangling and destructive Remora's of our Peace — And that those Reverend Persons will return with such a Primitive Meekness and Sincerity as shall become their Character and Function.

The face of Things since the last sitting seems somewhat alter'd, which possibly may much dispose the Convocation to such a temper of Tendernefs toward Dissenters as was promis'd — Tho 'tis true, too much stress ought not to be laid upon that Promise, because most of those Reverend Fathers who made it, cannot (by reason of Conscience) qualify themselves to be legal Members thereof.

Yet if those Reverend Fathers would please to dispose those to so good a Work, over whom they have an Influence, it would no doubt very much expedite the Work (perhaps they do) and this would also go in discharge, and acquit all of their Promise; for by so doing, it would appear they did their utmost towards the performance thereof.

Tho, I confess, to request them to be aiding and assisting, and to solicit that others may labour in that Vineyard out of which they are debarr'd, requires so much Self-denial that it can scarce with Modesty be desir'd.

Reconciliation and Moderation promis'd.

The Promise was general, in the Name of the whole Body; the whole Convocation, no doubt, give a great Deference to the Learning, Piety and Prudence of these Reverend Fathers, and do, I suppose, account themselves somewhat engag'd to the performance of this Promise: — Therefore we cannot but hope still, that some regard will be had to it, and that something will be done. — Besides, if nothing be done, some will be apt to censure, that in that Promise there was too great Alloy of human Policy to be sincere.

But to come somewhat nearer to the Business, most free reasoning, and, I hope, pious Men of the Nation, account themselves uninterested and uningag'd in a Party, concerning these indifferent Things in dispute, between Conformist and Nonconformist, so as to account them unalterable, and so as to countenance the stiff Opposition that is made by many; such have all along, and of late, more plainly discern'd, that the one Party have too rigidly adher'd to, and the other too rigidly oppos'd our present Establishment.

Dissenters blam'd.

Perhaps some of the Dissenters have been, and are infinitely to blame, by their indecent and turbulent Opposition: And may it not be also said to some of our Church, that they have in these Matters behav'd themselves like Men subject to Infirmities?

Therefore such free reasoning Persons as above, tho they may think the Dissenters much more in fault; yet such, with submission, think that some things in our present Establishment are defended with difficulty enough.

Such therefore could heartily wish, that for Peace and Unity's sake, in Church and State (the most powerful of Arguments) and also as it is a thing in some measure in its own nature fit to be done;

Scripture to be the Rule.

That this Reverend Assembly would please to render our Ecclesiastical Constitutions as rational and accountable as the Substantials of our Religion are, *so that he that runs may read.* That is to say, that they would please to compile such a Liturgy, Articles, Canons, and other Ecclesiastical Constitutions, as may sit so close and fit to the Rule of Scripture, as to leave no space or room for Scruple or Exception for

for any rational Man, of the soberer Party of either side, as to indifferent things which are alterable.

This to many may not only seem a very difficult Undertaking, but will also be censur'd as a *Chimera*, or some *Eutopian* Fancy.——Yet Consideration will much abate the Difficulty thereof, and render it more practicable than some may think.

——Surely this may be done; and if it may, 'twould at any time be expedient to be done: But at this time necessary, far more necessary than to write Rationals of somewhat strain'd and far-fetch'd Arguments to defend our present Establishment (tho those might be of use when the times would not bear Alterations and Amendments) This rigid way of forcing Conformity is not practicable now, therefore other Methods ought to be us'd. And if that which is just now hinted at cannot be so exactly perform'd, yet if but the most material things objected against were taken away, this in a great measure would do the Work, 'tis probable.

For by this means 'tis suppos'd the *Presbyterian* Party, perhaps some others, would come in upon such an Act of Comprehension, and then the Faction in the State would be broken: For tho they may count themselves so fast bound, and wreathed and twisted together, that the Gordian Knot may sooner be unloos'd than they separated; yet by this means they would dissolve and fall asunder as readily as *Sampson's* Withs. The best Artificers can't work without Tools: And by this means the over-balance of Parties would be so unproportionable, that the State for all future Ages would scarce ever be in the least hazard of disturbance from *Dissenters*.

Benefit of
Comprehension.

And besides the inequality of Number, the remaining *Dissenters* would but be a shatter'd divided Party, inconsistent among themselves, and easily manag'd if they should offer the least disturbance.

Again, if the Indulgence be continu'd to such as shall not comply, they will thereby be in as good a condition as under any Government (better than under the *Presbyterian*) unless their own was uppermost; and one Party can but hope for that: therefore they are better as they are, if they were to cast Lots which Party should be uppermost in the Government, unless the rest were almost sure of an Indulgence; but the *Dissenters* are better as they are, *The Bird in Hand is worth two in the Bush*.

Indulgence,
and the Benefit of it.

And further, the Indulgence will be a check upon the remaining *Dissenters*, and in the nature of a Recognizance of their good Behaviour towards the State: For if they should offer to break the Peace, they would forfeit their Liberty, and be punish'd and crush'd as heretofore, and worse perhaps, their Party being so much less'n'd.

So that by gaining one Party, the rest will be ever unable, tho never so willing to hurt us.

I know Toleration or no Toleration is a large Field of Argument, and much (and much to the purpose) may be said on either side; I shall only, to what is aforesaid, add my further Thoughts, and not condemn or censure those of a contrary Opinion.

Therefore as to the Outlyers who won't, or, as they say, can't come within the Pale of such a Comprehension, they are too wild to be forc'd in; to endeavour it would be trouble and toil, and lost labour in the end. Therefore sure it will be more advisable to let them go at large, and the Church will not have much reason to murmur or complain; because those within the Comprehension will have taken up all the good feeding Pastures, the Outlyers Lot therefore will but light in a barren Land. 'Tis true, they will have scope and room enough to roam about (in which they delight perhaps) but they will but have somewhat a pinching Pasture. 'Tis but fit indeed they should suffer something, since they won't be contain'd within any reasonable Bounds.

How refuses of
Comprehension are to be dealt with.

But to be a little more serious in this Matter: Custom and Education makes and creates Consciences in many; how can he but think that to be sinful which he hath been long us'd to think so, and which he hath all along been told was so, by those upon whose Judgment he must needs rely? For since 'tis but few who are able to judge for themselves, all the rest must rely upon some body; and upon whom sooner than upon their Parents, Friends and Acquaintance, and such Guides as they shall recommend to them?——Such therefore are in a manner under a fatal necessity to continue in the same way.

And yet however slight the Foundations may be, upon which such build their Faith; yet they are so fix'd therein, that rather than do otherwise than they have

have been used and taught, they will sometimes suffer loss of Goods, Imprisonment, &c.

All People will own, 'tis pity such Constancy should not be better directed. And is it not also pity they should be punish'd for that which is so well intended? For they are in the right to the best of their knowledg, and they have taken the best method to settle their Judgments they were capable of.

Invincible
Ignorance
not easily
overcome.

'Tis also a vain Attempt for any Man to hope by Argument and Persuasion to overcome invincible Ignorance: How rare is it that a *Nonconformist's* Child (if religious at all, unless bred in the Universities) proves a *Conformist*, and the contrary much more rare?

Faction.

'Tis true, some may refuse to comply out of Faction, or some other sinister Ends; but since 'tis difficult to point out who those are, and inconvenient to leave that to the arbitrary Discretion of a Magistrate, it seems somewhat too severe to fix a certain Punishment to an uncertain Crime. Where Laws inflict a Penalty, the Proof ought to be direct and plain.

And I can't see why an Act of Comprehension and an Indulgence may not be consistent; and be surely the best, if not the only Means whereby all the *Dissenters* will either conform, or live in Peace and Amity among their Neighbours.

But if there should still be any such restless Spirits, as to carry on the old Feuds and Heats against the Church, they would but thereby lose, and our Church infinitely gain ground: Then that compassionate regard that many had heretofore shewn them, would (after the Church had thus condescended for Peace) be turn'd into a dislike and averfation.

The Church by these Concessions would be so firmly establish'd, that if such ill Men should still continue their invidious Clamours against her, they would but thereby, like Waves, dash themselves against a Rock not to be mov'd.

And in return to such expedient Concessions, the Church, no doubt, would receive from the King and Parliament all such Esteem, Support and Assistance, as she should reasonably desire. And from the generality of all sober and reasonable Men, all such Honour and Reverence as shall ever be due to the best of Men.

Hereby the Church would erect to her self (in the Hearts of the most good and wise of this and all future Generations) an everlasting Monument, of being the Healer of those Breaches that have so long embroil'd and shaken both Church and State.

To the Dissenters.

What the
Dissenters
ought to do
now.

And if the Church come to such a temper of Tenderness towards *Dissenters* as is suppos'd, surely these will come to such a temper of Prudence and Moderation as gratefully to accept thereof. And tho the Terms to them may seem somewhat narrow and strait, yet let them turn the Point of the Dagger against their own Breasts, and consider what they would do in the like Case, if their Church-Government was uppermost in the State, and establish'd by Law; Whether it would not then be difficult to persuade them to recede from any of their Constitutions, tho indifferent Things however? Whether they would not be very sparing in yielding, and yield with some reluctancy? And whether many of the Objections now rais'd by the Church, would not then be rais'd by them?

One may have a probable guess by what is past, what will happen again in the like case.

But I shall not go about to rip up any Passages of those Times, when the Church of *England* were the Sufferers; my Design being to pour in Water to quench, not Oil to increase the Flame.

Calumny
remov'd.

'Tis rumour'd abroad, as if the *Dissenters* would never be satisfy'd, unless Episcopal Church-Government be abolish'd. But I take this as a Calumny cast upon them, to make the Church jealous they design to rob her of her choicest Jewel; and that therefore the Church may keep them out of her Liberties for fear of further danger.

Episcopal Church-Government hath ever been prefer'd by the most Learned of all Ages.

Episcopacy
is in posses-
sion.

But admit it were a Doubt (and that's as low as any fair reasoning *Dissenter* can desire one to go) yet, Episcopacy being in possession, and establish'd by Law, it ought for that reason to be continu'd; besides, 'tis hazardous to make material Alterations, because unforeseen Inconveniences may arise.

Again,

Again, the generality of the whole Body of the Nation, both Lords and Commons, will scarce ever admit of the *Presbyterian* Government here in *England*. ——— The inconvenient Consequences of that Discipline in the Church of *Scotland*, are too fresh in Peoples Memories to be so soon forgot.

Inconveni-
ence of ano-
ther Go-
vernment.

To be check'd and controll'd by every Parish Minister, not only in Spirituals, but in Temporals too oft-times in order thereunto, would but go harshly down with a Nation that hath been so long accustom'd to more easy and gentle Methods.

The *Dissenters* perhaps may think, that as to worldly Interest, they are in as good a Condition now, by an *Act of Indulgence*, as by an *Act of Comprehension*. Be it so, yet there remains a Schism in the Church, and Disturbance in the State, which are no slight Matters, but worthy of the serious consideration of all good Men. Therefore if the Church be willing to yield they ought to comply, if possible, tho they can't have all they desire.

Considera-
tions re-
commended
to the Dis-
senter's.

Again, surely the *Dissenters* won't only consider the present Time, but look forward for the sake of those who shall come after them; for tho they may rest satisfy'd the *Indulgence* may continue for their Time, yet the Reversion is always valuable, at least as a Life-Estate in possession, by all who have Heirs or Successors. Therefore let the *Dissenters* consider, that hereafter an *Act of Indulgence* may much sooner be repeal'd than an *Act of Comprehension*; for the one is counted to heal as far as it goes, whereas the other keeps the Wound open; yet, I confess, that's better than to use Force.

And let the *Dissenters* also further consider, that however sure they may be of the *Indulgence* for their own Time, yet the Grant is clogg'd with an implied Power of Revocation.

If the Convocation (as the *Dissenters* may think) shall prove somewhat close-handed, perhaps they may stand off in hopes a Parliament may undertake the Business, and be more liberal. ——— That's possible indeed, but at present things seem not much to look that way; and if not at present, 'tis very uncertain when.

I have heard that something of that nature was mov'd in the last Parliament, but clearly carried to refer those Matters to a Convocation. ——— 'Tis scarce probable there will be fewer of the same Opinion in this Parliament.

If some present Favour seem intended to the Church, that perhaps may put the Convocation into a good Humour to be kind to others (the best of Men have their Ups and Downs) to strike while the Iron's hot, may be good Advice.

And 'tis more particularly to be hop'd the Convocation will, at this Juncture, do something tending to our Peace ——— because they very well know, that the doing thereof will be the most acceptable Return they can make for such Favour to be shown: so that now a double Gratitude will be added to all the other Motives for Compliance and Peace, the one for our general Deliverance, the other for particular Favours shown.

Hopes of
the Convo-
cation's do-
ing well.

Upon the whole Matter it seems advisable, that the *Dissenters* (the more moderate Party however) abate as much as is possible of what they hoped for.

And as in worldly Felicities, we may sooner arrive to Peace and Tranquillity of Mind by Subtraction than Addition; so in this Case by the like Means we may soonest attain the End of our Wishes, viz. Peace and Unity. 'Tis hop'd the *Dissenters* will now act like Men of Piety and Prudence, and not like Engines in the Hands of others, to promote and continue a Faction in the State. 'Tis hop'd the Church will do the like.

These Matters seem to be growing to a Crisis: let the *Dissenters* use Means while there are Hopes, the Books may be clos'd e're long perhaps, and then probably they may bid farewell to all hopes of Accommodation for this Age; let them therefore vigorously solicit this Matter, it requires their best dexterity of Address and Quickness. To take Time by the Foretop, may perhaps be good and seasonable Advice.

Add to these Reasons this Consideration, that while these unhappy Differences remain, it will be too much the practice of most (as hitherto it hath been) to spend most of that Time (which ought to be dedicated to the more indispensable Duties of Christianity) in wrangling and contending about Rites and Ceremonies, &c. and thereby delude themselves with the Fancy, that all this while they have been manifesting a Zeal in God's Cause.

Duties of
Christiani-
ty neglected
by the Dis-
sensions.

And so, by placing to the Account of Religion so much Time and so much Zeal, they think they are very ready to give an *Account of their Stewardship* when call'd.

Whereas

Whereas in truth, notwithstanding all this Pains and Travel, and Time spent, they are not advanc'd one step in their Journey towards the Heavenly *Jerusalem*; they are no forwarder than he, who in some misty Days loses his Way, and wanders up and down, till at last he come to the very place where he first set forward.

And after all, let the sober Party of Dissenters consider, that it would be a very difficult Task for the most learned of them, by fair Argument, to defend their Opposition and Separation from the Church.

Re-ordination (I hear) is one of the most material Things the Dissenters object against.

Re-ordination
consider'd.

If a Man have an Estate pass'd to him by such Conveyance as he shall think sufficient, yet if he hear another Man pretends a Title to it, he would desire a Conveyance or Deed of Confirmation from that Person, because of the possibility that he may have a Title; for many Doubts about Titles arise upon the various Interpretations of the Law.

Now by taking this second Conveyance, no Man will say, The Party owns the first null and void, or that it is any ways invalidated thereby; and if it have any effect, it must be to convey a new Title, or corroborate the former.

Now in the Case of Re-ordination, the Bishops claim a Title, and (unless in case of necessity) the sole Title and Power to confer Orders. — The Presbyterians too say, They have a Power to confer Orders. — It seems therefore there is a Doubt, which must needs arise from the various Interpretation of the Law of God in that Case.

Therefore, methinks, if such a Law be made as shall require Re-ordination, (the Episcopal Way of Ordaining being establish'd by Law) the Dissenters ought to submit to it, it may work *ad corroborandum* at least since there is a Doubt, however it no way invalidates their former Orders.

And let the Dissenters consider, That by so doing, the Peace and Unity in Church and State would be in a great measure settled — For (perhaps) most other things would be agreed well enough.

On the other hand, our Church owns, That in case of Necessity others than Bishops may confer Orders. — In the late Times, Orders from Presbyters was the Way in Practice and Use, and countenanc'd by Law; so that in those Times they were under a sort of Necessity to be ordain'd that way. — Now if this will be allow'd as a Necessity, such Ordinations then made are good and valid. — if the positive Law of the Land hinder not: And the old Rule (*factum valet quod fieri non debet*) may help out something in this Matter.

Proposal
for removing
that
difficulty.

Therefore (upon the whole Matter) methinks this great Point may be compounded, *viz.* That all the Ordinations made in the Times above mention'd, be own'd as good and valid: And that for the future, all Orders be confer'd by Bishops only: And that those be re-ordain'd who have been ordain'd by Presbyters since the Restauration of King *Charles* the Second.

I must beg pardon of both Parties for intermeddling in this Matter. — A chance Proposal or Expedient thrown in by an unskilful Hand, hath sometimes taken good effect.

By talking thus coolly and indifferently between two Parties, I shall, most probably, be censur'd by some of each, as cold and lukewarm in Religion; yet let such remember, That their Brandy (like Heats about indifferent things) hath almost overcome and extinguish'd the native Heat of that Religion, which is *peaceable, pure and undefil'd*: Their Heats have made Charity (towards one another) cold, and Peace and Unity almost a Stranger among us.

Warmly to espouse a Party, and severely to chastise the other, is the way to please (I know) and to be accounted sharp and quick Men.

Heats to be
avoided in
either Party.

But for my part, I look upon Satyr but as a relishing Bit to a wanton vitiated Palat, which gives no solid nourishment; especially that way of Writing (I think) is scarce pardonable on this Subject: Yet if the Practice and Usage of some Divines may pass for Authentick Precedents, few Writers fall more foul upon each other, than some of them upon this Subject, especially the losing Side makes good the Proverb to purpose: How oft do they make large Parentheses of sharp and unbecoming Reflections, like foul Foot-Ball-players, that leave the Ball and fall a squabbling and breaking one another's Shins?

If in Discourse a Person should give you solid Arguments to persuade, and all on a sudden (before he stay to hear whether you be convinc'd) this Person should start

start up and draw his Sword, and fall a cutting and flashing you; to use no harsher Terms, would you not think this was a preposterous way to convince? Some would be apt to say, This was some sudden frenzical Fit; and that this Gentleman ought to be convey'd to a dark Room and clean Straw. The Tongue is a cutting Weapon too, and sometimes just thus unreasonably manag'd.

If Passion and Interest in these Matters could once be laid aside, Peace and Unity would soon be restor'd.

'Tis true there is a religious Zeal in Cases of great Moment and Weight, which requires a Sharpness and Severity of Expression. — But methinks such Concern and Earnestness is not necessary, where People only differ in Opinion, whether such or such a thing be or be not in its own nature indifferent, &c. — And indeed, they seem the most (if not the only) proper Persons to exercise this Religious Zeal, who have (in a manner) annihilated themselves, as to the Interests and Concerns of this World; such may most clearly distinguish between an holy Zeal and a corrupt Passion. And yet even such very sparingly make use of that Method.

Many Objections will be rais'd against what is here said, but I am no good Exorcist at raising and laying of Spirits. In this Case there would a whole Legion appear, some from one Coast, some from another (for I account of needless Objections to obstruct Peace but as evil Spirits) some being already rais'd, I shall try my small Skill to lay them, tho I confess it is so much out of my Way, that I shall but slightly perform what I undertake.

Objection 1. If the Dissenters should comply, yet they would still hold up the old Differences, there would still be a Schism in the Church; and that it would be more dangerous to have an Enemy in the City, than one in the open Field.

Answer. This is but Supposition, it shows no good Christian Temper, to damn and stifle an Act of Favor and Charity, upon Conjecture and Supposition, That the Charity will not be rightly employ'd: This would too much confine Charity, and give too great a Latitude for such to deny, who may rather want Exhortation to stir them up.

Want of Preferment makes Mutineers in the State: gratify them and they are easy. So in this Case, yield in some things, and they will be easy in the rest, when prefer'd. Men are but Men; to justify themselves (in what they have done) to the rest of the Dissenters, they will justify and defend our Establishment so alter'd.

Again, 'Tis more than probable they will do so; for those of the same Principles, both Ministers and People, who conform'd at Bartholomew-Tide upon the Act of Uniformity, and those who have from time to time since conform'd, have in the general behav'd themselves peaceably and decently towards the Church: If an imprudent Man in a County have done otherwise, he hath but expos'd himself, to defile the Nest of his own chusing. But this small Inconvenience hath been much overballanc'd by those of the same Party, who have not only liv'd peaceably, but concernedly defended our Establishment.

And can it be suppos'd, That those, whom we hope to gain now, will be less so, when so many things then scrupled at, will (as is suppos'd) be taken away?

Object 2. If the Church should yield to take away some things, the Dissenters will not be satisfi'd, they will still be craving more and more Alterations.

Answer. 'Tis difficult to set bounds to Man's Desires, therefore hard to answer this Objection in the Negative, That they will not.

But if one who is weak and faint, desires a Glass of Wine of you for his necessary Refreshment; to deny him at all, would shew a want of common Compassion. But 'twould be very harsh, to add to your denial, the aggravating circumstance, That you would not give him one Glass, lest he should crave another and another, until he were drunk; since it is in your own power to put a stop to your kindness as soon as you please.

Besides, the Dissenters, while things are in Agitation and Debate, may ask a greater Price than they will take, when the Church hath granted what she shall think fit, and hath fix'd down an Hercules's Pillar for this Age: Then the Dissenters will pause upon't, and consider what they have got, and (perhaps) find they have enough, and acquiesce, and be satisfy'd. As while a Man is eating, his Stomach may crave more and more; but if he stop a little before satiety, the Stomach will close, and the craving cease.

Object 3. By making such Alterations (perhaps) many of the Church may take such Offence as to leave her Communion: and so, like the Sea, what's gain'd in

Passion and
Interest ob-
struct
Peace.

Want of
Prefer-
ment occa-
sion of
grumbling.

Not satis-
fy'd with-
out more.

Simily.

Alterations may
offend
some.

one place, would be lost in another; and the Gain (tho equal in numbers) would not be an Equivalent for the Loss.

Ans. The Alterations being to be limited to indifferent things, if any should refuse Communion for such cause, then the Argument us'd against *Dissenters* would turn upon themselves, *viz.* That People are bound in Conscience to obey the Magistrates Sanctions in things indifferent.

Object. 4. Whatever hath been of primitive Usage in the Church (tho indifferent things) ought to be continu'd, unless some great necessity urge the contrary.

Ans. Peace and Unity in the Church and State are the pressing Reasons for taking them away; no other Expedient hath hitherto, nor ever will ('tis probable) prevail.

If the Church for this cause shall yield them up, she will thereby shew a more Primitive Christian Temper, than by retaining them, tho the *Dissenters* (perhaps) shew more Zeal than Learning, in insisting so positively to have them taken away.

Object. 5. Why don't the *Dissenters* propose what Alterations would satisfy? For it shews too much inconstancy and instability in the Church, to be so often altering, unless they were assur'd they could effect the Good design'd thereby.

Ans. I confess, since (as is suppos'd) the Church is willing to part with something to buy Peace, the *Dissenters* (I should think) should set the Price, and then the Church would bid.

But if they don't, or are so inconsistent among themselves, as they can't agree about it, to follow peace with all men, is a Christian Precept; and in this case it can scarce fail of having the effect design'd. — For upon the Act of Uniformity (as above) many, both Ministers and People, did conform, and some since, from time to time.

So that (upon the whole matter) we may reasonably suppose, all that Party are very near conforming. — Surely then they will all come in, when the Church shall have remov'd their most material *Stumbling-blocks* (as they count them) to clear the way for their entrance. — However, some will be gain'd; and if so, the Church will have no cause to repent of her labour of Love and Charity. —

There ought to be a care to seek and bring in one lost Sheep, even to the present neglect of the whole Flock.

Object. 6. The last Objection will be made to my self by both Partys, *viz.* That I being a *Layman*, ought not to put my Sickle into other Peoples Harvest; and that I engage in a Cause too weighty and unweildy for me to manage; and that I am by no means competent for such an Undertaking.

Ans. Tho I put my Sickle into other Peoples Harvest, it is not to rob them of their Corn, but only to cut up the Weeds (*viz.* Divisions and Dissensions) which hinder its growth and thriving: And I hope I shall not be accounted a Damage-Pheasant Trespasser for that.

Again, in the Province I undertake, no such great Learning is requir'd, it being chiefly to labour between Party and Party to make general Proposals of Reconciliation. I know they must step cautiously, who travel in this way: and 'tis very probable I shall have the same Fate with those Arbitrators who displease both Partys; yet let it be remember'd (by the bye) that such Decisions are usually most just.

And further, all I pretend to, is only to draw a rough draught of these Matters; to give the hint to some better hand to represent them more to the Life; and that some *Lay-men* (not too much engag'd in a Party) and whose Talent may be sufficient for such an Undertaking, when they shall find how I have sully'd and blemish'd a good Cause by ill management, may be provok'd to handle these Matters with such Prudence and Moderation as the Subject doth deserve and require. — And if this small Pains shall but occasion so probable a good, that will be as great a Recompence and Satisfaction as I can hope for or desire: and as a great Man saith of Experimental Philosophy, That the Experiments ought not to be sort'd and rang'd under proper Heads, &c. lest such method too much confine further Improvements; so since what I offer, is but as hints to others, I may perhaps be somewhat excus'd, if the method be somewhat broken and confus'd. And tho I sometimes place that under one Head which belongs to another, like an unskilful Carver, who carves part of the Wing to the Leg, or the contrary; however, if (as in carving) the whole substance, or any thing to purpose be found any where, 'tis less matter tho Method be not so exact.

The Author's Apology for his meddling in this matter.

After

After I saw *Vox Cleri*, I attempted to answer some Objections there made, before the *Answer* came out; which, I must own, hath answer'd them a thousand times better: yet here being some by-hints (tho not much to the purpose) I let them pass. I have not seen any thing of this Subject, but *Vox Cleri*, and the *Answer* to it.

VOX POPULI,

O R,

The Sense of the sober Lay-men of the Church of England, concerning the Heads propos'd in his Majesty's Commission to the Convocation.

Printed in the Year 1690.

The P R E F A C E.

WE pay too great a Deference to so venerable an Assembly as our Convocation, to come before them, tho with a Petition in our Hands, without making some Apology for this seeming Rudeness, as tho we presum'd to instruct our Teachers, and fancy'd our selves wiser than our Spiritual Guides. We might plead by way of Excuse, that a former Convocation not only allow'd, but desir'd more on our behalf than we do pretend to: For they address'd to King Henry the 8th, That an equal number of Lay-men might be join'd to some of their own Body, with a full power to abrogate or confirm Canons and Ecclesiastical Laws, as to them should seem most expedient: whereas we do neither presume nor desire to sit among the Clergy as Counsellors, but only to be permitted to stand as Supplicants at their door.

Burnet's Hist. of the Reform. Vol. 1. p. 147.

We might further alledg in our own behalf, that when we lately ventur'd with our Pens to defend the Doctrines of our Church against the Papists, in which Controversy our learned Clergy gain'd such immortal Trophies of Honor, our Papers were not only kindly receiv'd, but protect'd too: Even Dr. Sherlock himself condescending to cover a Protestant Footman with his mighty Shield, who like a small Esquire had ventur'd to strike a blow or two for the Giant. We are therefore apt to believe, that what we now propose for the further advantage of our Church, will be as favorably entertain'd. And we are the rather encourag'd to such a Persuasion, because the Master of the Temple, notwithstanding the Canon in this case (which shall be observ'd in its proper Place under that Head) hath lately revok'd that Letter of Attorney which the Clergy seem'd to pretend to, for the warranting them alone to act in our Names, while we sat still and held our Peace. For, saith he, Tho the Clergy have of late in a great measure monopoliz'd the Name of the Church to themselves, yet in propriety of Speech they do not belong to the Definition of it: they are indeed the Governors of the Church, as they have receiv'd Authority from Christ the Supreme Lord and Bishop of the Church; but they are no more the Church, than the King is his Kingdom, or the Shepherd his Flock: the Bishops and Pastors of the Church, consider'd as such, represent the Head and not the Body, &c.

Controversies which the Papists manag'd with Success.

The Clergy is not the Church.

Dr. Sherlock's Disc. of the Nature, Unity and Communion

But that which we shall insist on, and stand by as the main Reason of our writing and publishing the following Papers, and which we conceive will fully silence those that are most likely to raise a Clamor against us, is to clear our selves from the injurious Misrepresentation that *Vox Cleri* gives of us, as tho we were as perverse Enemies to his Majesty's excellent Design in his Commission to the Convocation as he himself is, and those whose Judgment he pretends to express: For one of the main Reasons he urges a-

of the Catholick Church, p. 32, 34.

Vox Cleri, gainst all Alterations, is that which he cites out of Dr. Burnet in *Judg Hale's Life*, p. 11. That as some might come in, so others that were in our Communion might take offence by the Alterations, and desert it; and seeing our frequent Changes in some things, might suppose there is nothing certain among us; and from the many Disputes about our Liturgy, proceed to question our Articles, and at last fall off to the Church of Rome, which they saw more constant to their Principles. And as we shall not repeat what hath been already reply'd, so we shall take the more effectual way of confuting him, by declaring the common Sense of the wisest and best among our selves that we have convers'd with about these Matters. For tho we pay that Respect even to the violent Bigots of our Clergy, which the great Learning of many of them does deserve, yet we must beg their pardon if we are unwilling all the blame of their unaccountable Stiffness and Rigor should lie at our door. We should think our selves very unhappy, if any unreasonable Sourness or Humour of ours should be the great Obstacle to the Churches Reformation and Peace, if we should any way contribute to the keeping open those bleeding Wounds which our Spiritual Physicians are call'd together to heal and close. We that have been so well instructed by our Ministers, have learn'd to distinguish between the Substance of our Religion, and the separable Appendages of it; and shall not suspect a change of our Food every time the mode of garnishing the Dish is alter'd; and have more of that Divine Charity they have preach'd to us than to stand at an irreconcilable Distance from Dissenting Protestants, and to run both out of the Church and our Wits too, if the Convocation should think fit to let them in on an honorable Accommodation of our differences. We have therefore thought fit to descend to the particular Heads mention'd in his Majesty's Commission, and under each of them to propose such Alterations as would not only not be offensive to us, but are highly desirable, because we suppose them equally conducive to the Beauty and Safety, the Strength and Glory of our Church.

Of the Liturgy and Ceremonies.

Exceptions against the Chapters in Tobit. **T**O begin with the Calendar; we shall not insist on the Rule to find out *Easter*, which hath been sometimes found not to be true, because that does more concern the Clergy to look after, than any of us: But as to some of the Lessons appointed in it, they being design'd for our Edification, we hope we may have liberty to speak. What a smutty Story is that in the 6th, 7th, and 8th Chapters of *Tobit*, appointed for the Lessons on the last day of *September*, and the first of *August*, which is enough to make a Man laugh till he burst, as certainly as the lumps of Pitch, Fat, and Hair, did the Dragon (Another precious Story, which not being appointed formerly by our Church, was by the *New Reformers* on the late King's Restoration, order'd to be read to us on the 23d of *November*.) The business in short, is this, *Tobias* luckily catch'd a certain Fish, that greedily snap'd at him, roasted it, and eat it; but by the Direction of the Angel, very carefully lays up the Heart, the Liver, and the Gall. Now an Ointment made of this Gall, was a notable Remedy against *Whiteness* in the Eyes. If it were as good against *Dimness* of Sight too, we could wish for the sake of the Author of *Vox Cleri*, we knew what sort of Fish this was. But a far greater Virtue lay in the Liver and the Heart, as *Tobias* afterwards found when he came to the House of *Raguel*. For this *Raguel* had a Bonny Girl to his Daughter, call'd *Sarah*, on whom it seems a certain spiteful Devil had clap'd a sort of *Venetian Pad-lock*; so that tho seven young Fellows had successively marry'd her, yet none of them had been able to consummate the Business, but lost their own Lives the very first Night they made any offers that way. *Tobias* was deeply smitten with her, and not discourag'd for all this, in short makes up the Bargain, and marries her. And just before he beds her, takes the aforesaid Heart and Liver of the Fish, and burns them upon the Coals, which made such a perfume, that away scours the Devil into the utmost parts of *Egypt*; and so *Tobias* and *Sarah* very comfortably enjoy each other. The Author of *Vox Cleri* hath a peculiar Crochet of his own, of reading some Portions out of ΕΙΚΩΝ ΒΑΣΙΛΙΚΗ in the Church, for the further enlightning our Understanding: And why not the *Arcadian Prayer* in the same Book, for the furthering of our Devotions? To carry on the humor, we humbly move, that we may be instructed out

out of another Royal Paper; That the same day, on which this Story out of *Tobit* is read to us, the other Lesson, to make them both of a piece, may be the late *Depositions about the pretended Prince of Wales*.

The *Gloria * Patri* is sometimes said, for Instance on the first day of the Month, five times at the end of the *Psalms* read for the Morning-Service; again, at the end of the Lord's-Prayer after the Absolution; again, at the end of the 95th *Psalms*, *O come let us Sing*, &c. again, at the end of the *Benedicite*; again, at the end of *Benedictus*; and again, in the *Litany*; that is ten times in the ordinary Morning-Service.

The Lord's Prayer is said once at the end of the Absolution; again, after the *Apostles Creed*; again, in the *Litany*; and again, in the beginning of the *Communion-Service*; and again, in the second Part of the *Communion-Service*; and again, in the Pulpit before Sermon: so that 'tis repeated five times every Sunday Morning constantly, and six if there be a Communion.

Not to speak of the *Kyrie Eleesons*, nor of all the Congregations, even Women too, saying after the Minister with a loud Voice, nor of their alternate reading the Verses of the *Psalms*, for which latter we don't find any Rubrick; all which seem to make such a confus'd Babbling, that we can hardly reconcile it to the Apostles Discourse in the first Epistle to *Corinth*. and 14th Chapter; and make a Man think he were in *Dover-Court*, rather than in a *Christian Assembly*.

Good Lord deliver us, is repeated eight times in the *Litany*; and *We beseech thee to Litany*, *bear us good Lord*, no less than two and twenty times in the same.

We can't but on this Occasion sometimes reflect on that wise Doctor at *Oxford*, who when he met with a little good way, was wont after he had once travel'd over it, to turn about his Horse, and say, 'Tis so good, let's go this over again.

This hath a semblance of those vain Repetitions forbidden by our Saviour; and when we reproach the *Fanaticks* for their Tautologies in Prayer, they immediately flap us in the Mouth with this; and we profess sincerely we are not able to reply upon them.

Most of the *Collects* have but one Petition in them. Were several of our short *Collects*. Prayers well digested into one, we humbly conceive it would be like the uniting of the little Sparkles of Heaven into a Constellation, that renders them the more conspicuous. And were the whole Service somewhat shortned, and so room left for Free-Prayer, and Encouragement given to it, we question not but our Learned Clergy would immediately exceed any of the Dissenters in that way, and greatly edify us. For not to examine what hath been urg'd on both sides, we will take the Learned Dr. *Stillington's* Opinion for true, 'That this was an Invention of the *Jesuits*: yet we know they are cunning Fellows; 'tis a very popular thing; it takes wonderfully; *fas est & ab hoste doceri*.

We are of that Nobleman's Mind, who said, 'There may be too great a Re- Character of a Trimmer, by the Marquess of Halifax a Nobleman of our Church, P. 20.
'straint put on Men whom God and Nature have distinguish'd from their Fellow-
'labourers, by blessing them with a happier Talent; and by giving them not only
'good Sense, but a powerful Utterance too, have enabled them to gush out on the
'attentive Auditory with a mighty stream of devout and unaffected Eloquence;
'when a Man qualified, endu'd with Learning too, and above that adorn'd with
'a good Life, breaks out into a warm and well-deliver'd Prayer before his Ser-
'mon, it hath the appearance of a Divine Rapture, he raiseth and leadeth the
'Hearts of the Assembly in another manner, than the most compos'd or best
'studied Form of set Words can ever do; and the *Pray-meets* would look like so ma-
'ny Statues, or Men of Straw, in the Pulpit, compar'd with those who speak with
'such a powerful Zeal, that Men are tempted at the moment to believe Heaven it
'self hath directed their Words to them.

Herein we confess we don't expect the concurrence of the Author of *Vox Cleri*, who hath an aking Tooth at Lectures and Sermons too, as well as, no doubt, a mighty Spleen at his Free-prayer, and would have all the publick Ministrations to consist in reading Liturgies and Homilies, And then if God Almighty would but send a Man a good pair of Eyes, or in case he don't do that, a *Fescue*, and a pair of

* The frequent Repetition of this, is one of those things which Archbishop Usher, Bishop Williams, Prideaux and Brownrig, Dr. Ward, Fearly, and Hacket took notice of, and would have consider'd whe- ther it were not fit to be amended. See the Copy of the Proceedings of these Divines touching Innovations, &c. and Considerations on the Common-Prayer Book, p. 7.

Spectacles, he might e'en keep the *Gifts of his Spirit* to himself, for any need that a Clergyman may have of them.

Athanasian Creed.

We could wish, for the sake of the *Greek Churches*, that the severe *Clauses* in the *Athanasian Creed* were expung'd: for tho we believe all the *Articles of Faith* contain'd in it, yet we think it no more becomes us to *damn* Folks in the Church, and at Divine Service, than in the Streets, and in common Discourse.

Creed to be sung or said.

We think it very odd, that *Te Deum*, *Benedicite*, the *Psalms* in Prose, and the Three Creeds, should be appointed to be *sung* or said. The *Lessons* in the old Common-Prayer Book were order'd to be *sung in a plain Tune*. That is reform'd, and they are now appointed to be read *distinctly with an audible Voice*. And is there not the same reason for the other two? Were this *canting* way laid aside, we might then have the *Psalms* in the *new Translation*; for 'tis for the sake of their being appointed to be *sung* or said, that tho in some places it be *corrupt*, and in others hath several Verses that are not in the Original, but the *Septuagint* only, the old one is still retain'd.

We have known some Men that have risen from the Dunghil to a great Fortune; who have *hung up* their *Leathern Breeches* as a Monument of their former low Circumstances; but not that they us'd to *santer* and *strudg* up and down in them as *Ornaments*, when they had a pair of fresh *Silk* ones lying by them.

Rubrick to be review'd.

We could wish those two Rubricks in the Communion Service were review'd; the first of which directs the Curate to *stand at the North-side* of the Table, when he saith the *Collect* and the *Lord's Prayer*; and the second immediately after directs him to *turn to the People*, and *rehearse distinctly* all the Ten Commandments. We humbly conceive, did the Curate look the same way when he reads the *Collect* and *Lord's Prayer*, as he doth when he reads the *Commandments*; or rather, were both of them read in the Desk where the other Prayers are, especially in great Churches, we might then be able to *hear* him, which now many times we can't, and consequently are no more edify'd than by the *Musick of the Spheres*. When the *Lessons* are read, the Curate is order'd *so to stand and turn himself, as he may be best heard of all such as are present*. The reason is the same in both Case. This we find reckon'd by those great Lights of our Church, formerly mention'd, among the Innovations, the reading *some part of the Morning Prayer at the H. Table when there is no Communion*. Nor can we be satisfy'd with what is usually said in defence of this Practice, That 'tis to *put the People in mind that they should celebrate the Communion every Sunday*. In the Name of God, what need is there of such dumb Signs to instruct us in our Duty, which are so contrary to Edification, when we have so many excellent and learned Men who can and ought to do it to much better purpose in their frequent, eloquent and pious Sermons out of the Pulpit? Must such Motions, as well as Pictures, be Laymens Books?

See the Rubrick about reading the Lessons.

Id. ut supr. p. 5.

Confirmation.

For our Childrens sake, we could wish that the Order of *Confirmation* were not made a matter of mere Form and Ceremony; that it were carefully look'd to, not only that they be able to say the *Creed*, *Lord's Prayer*, and *Ten Commandments*, and to answer the Questions in the *Catechism*, but that they understand them too; to this end, that the *Rubrick*, which so rarely well enjoins the Curate diligently to catechise the younger sort, and then either to bring them, or at least *send in writing, with his Hand subscrib'd thereunto, the Names of all such Persons in his Parish as he shall think fit to be presented to the Bishop to be Confirm'd*, may be reinforc'd and observ'd, that so those that are notoriously scandalous, or grossly ignorant *what their Godfathers and Godmothers promis'd for them in Baptism, and which now with their own Mouth and Consent they are openly before the Church to ratify and confirm*, may not be admitted to it.

'Tis certainly no fault in our Constitution, but there is a great one in those who do not act according to it, that admit many who have as little understanding of the Baptismal Covenant when Hands are laid, as when Water was pour'd upon them. And we could wish some of our Spiritual Fathers would shew us by what Warrant these words are us'd in the *Collect* for that Service—*On whom, after the Example of thy Holy Apostles, we have now laid our Hands [to certify them by this Sign of thy Favour, and gracious Goodness towards them.]* And that they may be diligently compar'd with our Church's Definition of a *Sacrament*.

Burial of the Dead.

We could wish those Passages in the Burial of the Dead were review'd, viz. *Forasmuch as it hath pleas'd Almighty God to take to himself the Soul of our dear Brother here departed, &c.* We give thee hearty thanks for that it hath pleas'd thee to deliver this

this our Brother out of the Miseries of this sinful World. — That we may rest in him (*viz.* Christ) as our hope is this our Brother doth. We do not enquire how the Clergy can read this over all dead Men that are not either excommunicated, unbaptized, or have not laid violent hands on themselves; tho we could wish Men that are so charitable to the dead, would be so to the living too: But we too often accompany the Corps of a drunken debauch'd Neighbour of ours, who liv'd all his days in the habitual practice of many deadly Sins, and gave no signs of Repentance that we could ever hear of; it may be the fatal Arrow struck through him while he was in the very act of some foul Sin. The Grave cannot strike a colder damp on our Bodies than the thoughts of this do on our Devotions; and we can no more say *Amen* on such occasions, than the dead Man himself on whose Funeral we attend. 'Tis true indeed, we are told that these Words do suppose the strict exercise of Discipline. But as long as we see no such thing, 'tis an Hypothesis that gives us no relief at all.

And seeing we are fallen on the Discipline of the Church, we do most humbly and earnestly beseech our Spiritual Fathers and Guides, that they would at last try their utmost for the setting of it up, that we may not be told from year to year, as we are in our *Ashwednesday* Service, that there *was* antiently in the Church a godly Discipline of putting notorious Sinners to open Penance, which we only *wish* were restor'd, but confess it is not. And we think that which our Church hath set up in the room of it, deserves a little Consideration, *viz.* the reading the general Sentences of God's Cursing against impenitent Sinners out of *Deut.* 27. and other places of Scripture, to which we are all requir'd to answer and say *Amen*.

Church
Discipline.

Ashwed-
nesday Ser-
vice.

Now suppose any Man hath a near Relation that is Unmerciful, a Fornicator, an Adulterer, a covetous Person, an Idolater, Slanderer, Drunkard, for the Curse is pronounc'd against all these: Or suppose our King should be guilty of any of these Crimes, as some of them were within the memory of Man; we should be loth to say *Amen*, or *So be it*, to such a Curse. We have often heard the Men of the *Scots Kirk* reproach'd severely for the Excommunicating of Kings. A *David* may take another Man's Ewe-Lamb; and it would be well if a *Nathan* would bring him to a sense of that horrible Sin by a Parable, and by a particular Application of a *Thou art the Man*. But for every one of us of the Laity to pronounce an *Amen* to a solemn Curse denounc'd against all such Offenders, and them among the rest, tho in the self-same Service we stile them *our most Religious and Gracious ones*, and that in the Church too, don't look like that Reverence we have been taught to bear towards crowned Heads. True indeed, the *Israelites* once did pronounce several of these Curses on Mount *Ebal*, with an *Amen*: but this was by virtue of an express Command from God; and this might be sutable enough to a *legal Spirit*, to the rough and sour Dispensation of the Law, but not to the calm, kind, and peaceable Institution of the Gospel, which is soft and gentle, as the Wings of that Dove that lighted on the Head of him who was the Author of it.

Having consider'd the Liturgy, we proceed to take notice of those Rites and Ceremonies of our Worship, which his Majesty hath join'd with it, and concerning which he says, *That being things in their own nature indifferent, and alterable, and so acknowledg'd, it is but reasonable that upon weighty and important Considerations, &c.*

Rites and
Ceremonies
indifferent.

Now it being confess'd on all hands, that they are things alterable and indifferent in their own Nature, we are all of us of the mind, that many unanswerable Reasons may be urg'd for their utter removal, and their being totally laid aside; such as are the Dangers and Hazards to which they have already expos'd our Church, the fatal Divisions, the unnatural and implacable Animosities they have occasion'd, and continue to foment; the Obligations that we lie under from the Commands and Examples of Christ and his Apostles, to yield in things of so small moment to the invincible Scruples, and the earnest Importunities of our weaker Brethren, as well as many others that have been alledg'd and enforc'd by many Learned Pens. We cannot tell how to excuse the Conduct of those Persons who, notwithstanding all the respect they owe to a gracious Prince, their Duties to God and their scrupulous fellow-Christians, will evidently lay open both the Church and State to an unavoidable Ruin, rather than depart from the Imposition and Use of such Rites, no more than we could have justify'd St. *John the Baptist*, if he had fallen a Sacrifice to the Fury of *Herod*, merely because he would not administer Baptism without his Raiment of Camels Hair, and his leathern Girdle. We cannot blame the Piety and Wisdom of our first Reformers, who introduc'd and continu'd these, to avoid throwing the Nation, that was then over-run with Superstition, into great and deadly Convul-

Alterable.

Convulsions ; but these Reasons are now ceas'd, and very dismal inconveniences do attend their present use, we do think it better to throw them by, than retain them.

It was necessary, that when our Church first rose out of the Superstition, Dark-ness and Idolatry, in which she had been so long buried, she should like *Lazarus* have some of the Grave-Clothes about her ; but if out of some odd Humour she should resolve still to wear them, she would appear not only unlovely, but ridiculous. But lest we should seem to push this matter too far, we shall only say, that it is highly requisite that the use of them should be left indifferent ; that a strict Uniformity in these Rites is no longer necessary, provided there be an Agreement in all the Essentials of her Doctrine and Worship. And there are many Grounds that move us to insist on this ; viz. that they are but trivial things, and of no moment ; that they neither add any real Decency and Beauty to our Worship, nor render it more acceptable and pleasing to God : besides, there are many Persons in our Communion, who are weary of them ; and many others who frequent our Churches, that do either despise or smile at our rigorous insisting upon them ;
 P. 20, 22. for as the Letter concerning the Convocation well says, the number of those who are addicted to them, is not very great ; and the greatest part of the Nation are such as are not over-zealous, and fond of them, but might by the Method we offer, be more firmly fix'd to us. There is a Body of Men who are still among us, and attend in our Churches, and at our Sacraments, who do think our present Contests about these matters, to be much like that, which we about *London* saw manag'd between the Ladies and the *Mobile* about *Top-knots* ; the Rabble design'd to force them to lay them aside by Ballads, Pictures, and insolent Jeers ; but that Sex which uses to conquer by their Charms, got the Victory now by Obstinacy and Resolution, and the poor *Top-knots* have outliv'd their Fury. While we saw no prejudices arise to the Nation, this afforded us a pleasant diversion ; but had the dispute run so high as to endanger an universal Mutiny and Insurrection, we should have commended that Sex, if they had prudently thrown them off, and quitted the Field.

We do therefore judg, that such things as these should no longer be impos'd as terms of our Communion ; and such as will not submit to them may be esteem'd as genuine Sons of our Church, as those that do ; that this is a Season wherein these latter should be allow'd as free an access to our Altars and Fonts as the other ; and that it is a Condescension which we owe not only to our Blessed Saviour, and those weak Disciples which he hath so tender a concern for, but to the Safety and Honour of our Church, as well as her present Constitution.

Of the Canons.

Since the Consideration of the greatest part of them will fall under the following Heads in His Majesty's Commission, we shall confine these Remarks to a few of 'em that cannot be so conveniently rang'd under those Particulars.

Can. 1. The first Canon enjoins the maintaining the *King's Supremacy* over the Church of *England* in Causes Ecclesiastical.

King's Supremacy asserted. And as that Canon declares all Foreign Power (*forasmuch as the same has no Establishment by the Law of God*) to be justly taken away and abolish'd, so that Doctrine should in all reason be disown'd and censur'd, which so many Divines of our Church have endeavour'd to defend and propagate in their publick Writings, viz. ' That the Church Universal ought to be govern'd by the Decrees of General Councils ; ' and during the interval of such Councils, the only way of Concord is to obey ' the Governing Part of the Universal Church, viz. All the Bishops in one Regent College, governing the whole Christian World, *per literas formatas*. Especially when, on pretence of the easier Execution of these Universal Laws some of 'em have been so liberal to his Holiness, as to assign that Province to him of Patriarch of the West, and the Centre of Unity to this part of the Catholick Church. And how much all the fierceness of Archbishops *Laud* and *Bramhall*, Dr. *Heylin*, Bishops *Morley*, *Gunning*, and *Sparrow*, Dr. *Saywell*, Mr. *Dodwell*, &c. against all Dissenters at home, and their strange chilness to the Reform'd Churches abroad, is owing to a miserable fondness for this Notion, as the hopeful ground of a Reconciliation between the Church of *England* and the *French* Church that has cast off the Papal Infallibility, it were no difficult Task to shew, and were worthy the Observation

vation of any Historian that would give a true Account of the continuance and increase of our deplorable Divisions. And as we dislike this Notion the more when we consider the purposes and designs for which 'tis calculated, so we have this Argument to urge why it should be disown'd, *viz.* Because it plainly sets up a Foreign Jurisdiction, against which the Nation is solemnly sworn.

The second Canon excommunicates *ipso facto* all Impugners of the King's Supremacy.

Against which we think there is nothing can be objected, but the fault common to it with the 10 following Canons, *viz.* Excommunicating *ipso facto*.—Of which more under those following Canons.

' *Can. 3.* Whosoever shall hereafter affirm, that the Church of *England* by Law Establish'd under the King's Majesty, is not a true and Apostolical Church, teaching and maintaining the Doctrine of the Apostles; let him be excommunicated *ipso facto*, and not restor'd but only by the Archbishop, after his Repentance, and publick Revocation of such his wicked Error.

' *Can. 4.* Whosoever shall hereafter affirm, that the Form of God's Worship in the Church of *England* Establish'd by Law, and contain'd in the Book of Common Prayer and Administration of Sacraments, is a corrupt, superstitious, or unlawful Worship of God, or contains any thing in it repugnant to the Scriptures; let him be excommunicated *ipso facto*.

' *Can. 5.* Whosoever shall hereafter affirm, that any of the 39 Articles agreed upon by the Archbishops and Bishops of both Provinces, and the whole Clergy, in the Convocation holden at *London* 1562, &c. are in any part superstitious or erroneous, or such as he may not with a good Conscience subscribe unto; let him be excommunicate *ipso facto*.

' *Can. 6.* Whosoever shall hereafter affirm, that the Rites and Ceremonies of the Church of *England* by Law Establish'd, are Wicked, Antichristian, or Superstitious; or such as being commanded by lawful Authority, Men who are zealously and godly affected, may not with any good Conscience approve 'em, use 'em, or as occasion requires, subscribe to 'em; let him be excommunicate *ipso facto*.

' *Can. 7.* Whosoever shall hereafter affirm, that the Government of the Church of *England* under his Majesty by Archbishops, Bishops, Deans, Archdeacons, and the rest that bear Office in the same, is Antichristian, or repugnant to the Word of God; let him be excommunicate, &c.

' *Can. 8.* Whosoever shall hereafter affirm or teach, that the form and manner of making and consecrating Bishops, Priests, and Deacons, contains any thing in it repugnant to the Word of God; or that they who are made Bishops, &c. Let him be excommunicate *ipso facto*.

' *Can. 9.* Whosoever shall hereafter separate themselves from the Communion of Saints, as 'tis approv'd by the Apostles Rules in the Church of *England*, and combine themselves together in a new Brotherhood, &c. Let him be excommunicate *ipso facto*.

' *Can. 10.* Whosoever shall hereafter affirm, that such Ministers as refuse to subscribe to the form and manner of God's Worship in the Church of *England*, prescrib'd in the Communion Book, may truly take to 'em the Name of another Church not establish'd by Law, and dare presume to publish it, that this their pretended Church has of long time groan'd under the Burden of certain Grievances impos'd upon it, and upon the Members thereof before mention'd, by the Church of *England*, and the Orders and Constitutions therein by Law establish'd; Let him be excommunicate *ipso facto*.

' *Can. 11.* Whosoever shall hereafter affirm or maintain, that there are within this Realm other Meetings, Assemblies, or Congregations of the King's born Subjects, than such as by the Laws of this Land are held and allow'd, which may rightly challenge to themselves the Name of true and lawful Churches; Let him be excommunicate, &c.

' *Can. 12.* Whosoever shall hereafter affirm, that 'tis lawful for any sort of Ministers or Lay-Persons, or either of them, to join together, and make Rules, Orders, or Constitutions in Causes Ecclesiastical, without the King's Authority, and shall submit themselves to be rul'd and govern'd by them; Let him be excommunicate *ipso facto*.

To these may be added,

' *Can. 139.* Whosoever shall hereafter affirm, that the Sacred Synod of this Nation, in the Name of Christ, and by the King's Authority assembled, is not the

‘ true Church of *England* by representation ; Let him be excommunicate, &c.

‘ *Can. 140.* Whosoever shall hereafter affirm, that no manner of Person either of the Clergy or Laity, not being themselves particularly assembl’d in the said Sacred Synod, are to be subject to the Decrees thereof, in Causes Ecclesiastical (made and ratify’d by the King’s Majesty’s Supreme Authority) as not having given their voices to them ; Let him be excommunicate, &c.

‘ *Can. 141.* Whosoever shall hereafter affirm, that the Sacred Synod assembl’d as afore said, was a Company of such Persons as did conspire together against godly and religious Professors of the Gospel ; and that therefore both they, and their Proceedings in making of Canons and Constitutions in Causes Ecclesiastical, by the King’s Authority as afore said, ought to be despis’d and contemn’d, the same being ratify’d by the same Regal Power ; Let him be excommunicate, &c.

Charity of
our Church
and the
former Ca-
nons incon-
sistent.

Excommu-
nication.

We have often heard our Clergy mention, among many other Excellences of our Church, her admirable Charity towards those that differ from her ; and we have hitherto taken it for one of her just Characters. For tho those that dissent from us, would frequently object the Severity of the Penal Laws, and the rigor with which they have sometimes been executed, as if such heavy Fines, and long Imprisonments, look’d but like a cold and frozen sort of Charity ; yet we thought it a sufficient Answer, that our Church did not countenance any of these Severities by her Doctrine. And therefore, how active soever some of our fiery Zealots (who were the Tools of another Party) might be in urging the Execution of them, this was their personal Fault, and not justly imputable to the Church her self. Tho, by the way, we cannot think it so ingenuous in some of our Clergy, to throw all the blame of those severe Laws on the Parliament that enacted them, which many of themselves were but too earnest and importunate Solicitors of. But we are extremely surpriz’d to read the foregoing Canons ; and when we hear them objected as an Evidence of the Uncharitableness of our Doctrine it self, we are at a great loss what to say in defence of it : for we plainly perceive by them, that the Practice of our most violent Bigots in the Execution of the Penal Laws, has been as much more charitable than these Canons of our Church, as ’tis more merciful to send the Bodies of Men into the Custody of the Jailor, than to consign their Souls into the Paws of the Devil. Nay, ’tis well that Writs *de Excom. cap.* have not been issued out against all whom these Canons excommunicate. For if they had, the whole Race of Dissenters had long since been both the Jaylors and the Devils Prisoners ; and we are very much afraid, a great part of our own Clergy and Laity must have born them Company. So that we can foresee no better Apology for the Convocation that fram’d these Canons, than this, that they seem only to have design’d them for the old rusty Armor of our Church, to be hung up for Terror, rather than to be used for Execution. For it cannot be denied, that how little Charity soever those had that made them ; our Bishops have generally since had more Christian Tenderness, than to prosecute all in their Courts, whom these Canons make so heinous Criminals. And therefore, were we of the Laity worthy to offer our humble Advice to the present Convocation, we should recommend it to them, as a piece of necessary Prudence, as well as Charity, to cashier these ill-natur’d Canons : For they do but frighten the silly Dissenters the more from our Communion, and are a standing Reproach to our Church her self on these two Accounts.

1. Were the Assertions here censur’d never so dangerous Heresies, an *ipso facto* Excommunication is an unreasonable thing.

Abuse of it.

’Tis no better than passing Sentence on an Offender, before any Attempts are us’d to reclaim him ; which is a gross Absurdity in Ecclesiastical Causes, where ’tis not the bare Offence subjects Men to that Censure of the Church, but Obstinacy in it. For these Canons, quite contrary to our Saviour and his Apostles Rule, make a Heathen and a Publican of our Brother, before he is ever told of his fault ; they reject him before he be admonish’d. Whereas Divine Justice it self does not subject Men to the Sentence of Condemnation, merely for their Sins themselves, but for their Impenitency in them. And sure the Church should not use greater Severity ; and therefore should not in those Censures (which *Tertullian* calls *Summum futuri judicii præjudicium*) exclude Men from her Communion *ipso facto*, upon their having run into Errors or Crimes, but upon their persisting incorrigibly in them. And what *Lindwood* observes concerning such Canons as these, does not wholly excuse them ; namely, *That a declaratory Sentence of the Judg is necessary, notwithstanding the ipso facto Excommunication, to a Man’s being avoided as an Ex-*

commu-

communicate Person by others. For all that this can amount to, is no more than to say, That tho a Man's *Mittimus* to the Devil is drawn up by these Canons, yet his Neighbors are not to take notice of it, till it be publish'd: but for all that, the Man is truly excommunicated; and that without any other precedent Admonition, than what the Canons themselves give him, which few of us ever read or see; no personal Admonition being us'd to prevent his Excommunication, but only to restore him by Absolution. And if these Canons be just, all whom they excommunicate, are bound in Conscience to forbear the Churches Communion; and therefore we cannot, in consistency with our selves, invite the Dissenters into it, unless we could either change their Minds, or at least put Gags into their Mouths. But were this all the Fault of these Canons, the matter were more tolerable. But

2. The Assertions themselves mention'd in the Canons can by no means deserve so heavy a Censure.

For as Excommunication is the highest Censure of the Church (which according to the Form us'd in our own, excludes the Person excommunicated from all Christian Society, and cuts him off as a dead Member from the Body of Christ) so it should never be us'd against any but those who are guilty of such pernicious Errors, or hainous Crimes, as give all imaginable ground to believe them in a state of Damnation; such as those mention'd 1 *Cor.* 6. 9, 10. *Gal.* 5. 19, 20. 2 *Tim.* 3. 2, 3, &c. For otherwise we might shut those out of our Communion, whom our blessed Saviour receives into his; and dangerously cut off the living instead of the dead Members of his Mystical Body. Besides, Nothing will sooner bring that sacred part of the Church's Discipline into contempt, than the using it on slight and frivolous Occasions; as we shall further shew afterwards, when we come to speak of Ecclesiastical Courts. 'Twas a grave and wise Caution of the Council of *Trent*, tho they had not the grace to follow it themselves, That tho the Sword of Excommunication be the very Sinews of Ecclesiastical Discipline, and very wholesom to keep the People in Obedience, yet it should be warily us'd, lest if it be drawn out rashly on every slight cause, the People should rather despise than dread it. For if Clergy-men will so far trifle with those solemn Censures, as to thunder out Excommunications against all that keep *Easter* the wrong day, or maintain *Antipodes*, or wear *Beards* of a wrong cut, &c. as some wise and learned Popes have formerly done; 'Tis no wonder if Men come to look upon them as Ecclesiastical Scarecrows; and provided they can scape the Jaylor, set the Bishop at defiance. And tho the Assertions censur'd in these Canons be not altogether such Trifles, yet they are some of them things too dubious to Men of mean Capacities, that have a fatal bias of an unhappy Education clap'd on their Understandings; and of too small consequence to bear the weight of so heavy a Doom. For what tho the Dissenters should arraign the Office of Burial read over the Graves of all the notorious Villains that have the good fortune to escape, or buy off an Excommunication; or censure the use of our God-fathers as exclusive of the Parent's publick undertaking for the religious Education of his own Child? What tho they foolishly mistake the Sign of the Cross for a New Sacrament? What tho they dispute against that Passage in the Book of Ordination, that asserts the Divine right of three distinct Offices, *Bishops, Priests, and Deacons*? What tho they be more peevish and untoward, and censure the very Office of our Bishops, as they are by the late Alterations in the Book of Ordination, made the sole Pastors of all the Churches in their several Dioceses? Nay, what tho they affirm their own Congregations to be true and lawful Churches? shall we on the score of their declaring their mistaken Opinion in any one of these disputable Matters, treat them as if they had deny'd all the Articles of the Apostles Creed, or broken all the Ten Commandments? Nor are the Dissenters the only Persons concern'd in these Canons. There are few of our *Latitudinarian* Clergy (as some are pleas'd to call all that have not as narrow Souls as their own) but will freely in their Discourses censure some things in the Government of our Church, particularly the Lay-Chancellors Power of decreeing Excommunications. And all these must expect no quarter from the 7th Canon. So that these Canons will quickly retrench the Corpulency of our Church, and reduce it to the small number of *Bigots*, who it seems are not so ridiculous as they seem'd to be, in monopolizing the Character of her True Sons to themselves. And yet even of the Bigots there are so many that frequently arraign some of our Articles in the Pulpit it self (particularly the 17th, about the Doctrine of Election) that we see not how they will escape the 5th Canon. And if we were not afraid of being sent to the Devil for company, by virtue of 139. Can. we would make

To be warily us'd.

Sess. 25.
Decr. de
Reform.
cap. 3.

Lay-Chancellors.

See the
Pref.

bold to question the *Convocation's being the Church of England by Representation*. 'Tis strange how they shou'd represent us of the Laity, who never chose or deputed 'em. 'Tis much stranger how they should represent the King and Parliament (who I hope are a very excellent part of our Church) for if they do, we see not what occasion there can be to interpose their Authority anew to give force to their Canons. They can at the most, only represent the Clergy of our Church, and are indeed no more than the King's and Parliament's Ecclesiastical Council, to advise 'em what Laws relating to the Church, they shall enact by their Authority *circa Sacra*. For all their Canons would never bind our Consciences as the Laws of the Church, if the Civil Authority made 'em not the Laws of the Land. To sum up this Head; Why should we think our Convocation so infallible, and the Constitutions of our Church so absolutely perfect, that a man cannot find the least fault with any one of them, under a less penalty than being cut off as a dead Member from the Body of Christ? This is as inexcusable a rigor, as if our Parliament should make it no less than Banishment for any Subject to dispute the Equity of the least Clause in the whole Book of Statutes. So that if the Convocation think fit to keep up these Canons still, it were very great Charity to clap Padlocks on the Tongues of the People, to prevent their running into the Devil's Clutches, by prating too freely against the Orders of our Church. And perhaps it was the sagacious foresight of such Complaints as these, made that wise Convocation, by way of Prevention, excommunicate among the rest, all that should affirm 'em to be *A Company of Men that conspir'd against godly and religious Professors of the Gospel*; or assert, That their Canons should be *despis'd or rejected*: Only they were careful to twist in the King's Authority with their own, that he who slighted the *Convocation*, might be thought to trample on the *Crown*.

Of Corruptions in the Ecclesiastical Courts.

Dr. Burnet's
Thanksg.
Ser. before
the H. of
Commons,
Jan. 31. p.
33.

AND here we do most humbly desire that the Reverend Guides of our Church will patiently hear us, and especially those of that *Venerable and truly Apostolical Order*: and if any expressions should drop from us that may seem inconsistent with that filial duty we owe to 'em, we desire it may be imputed to our great zeal for 'em; and we shall as submissively fall on our Knees to beg their Pardon, as we would do on any other occasion to implore their Blessing. *Many of the old Corruptions* (saith one of our Reverend Fathers in God) *do yet remain among us in practice, and the Administration of the Ecclesiastical Authority is liable to great Objections*. I will not run out in further particulars, for it will be easy to find them; and if you once set about it, you will soon see what work is before you.

We shall confine our Discourse chiefly to the high and dreadful Sentence of *Excommunication*, for so it is in it self, and was always so esteem'd by devout Souls, till the great and scandalous Abuses and Corruptions of it in these latter days have made it so contemptible, that sinners do no more value it, than Men do the threatening Predictions of a common *Almanack-maker* concerning Thunder and Lightning. We have many things here to offer, under these following Heads.

1. The Persons that manage it.
2. The Causes for which it is inflicted.
3. The manner of proceeding in our Ecclesiastical Courts.
4. The things that ensue on the Sentence of Excommunication.

Spiritual
Matters to
be judg'd
by Spiritu-
al Men.

1. The Persons that manage it. And into whose hands would a man rationally expect the Keys should be put, but theirs to whom Christ and his Apostles have given them, and where the Primitive Church left them? Who should judg Spiritual Matters, but Spiritual Men? Who should correct the Children, but their Fathers; and discipline Souls, but they that have the care of them, and watch over them, as those that must give an account? They that so justly claim the Power of Ordination, why should they not have that of Excommunication; and deliver up to Satan, as well as give the Holy Ghost? What is it that can reasonably be suppos'd to hinder our Reverend Bishops from minding so great and necessary a part of their Office? Is it their great diligence in *Preaching*? 'Tis true, this our Church doth strictly tye them unto. The (a) Epistle, or that (b) which is ap-

(a) 1 Tim. 3. Apt to teach.

(b) Acts 20. 17. — have taught you publick-ly, and from house to house; take heed therefore to

your selves, and to all the flock over which the H. Ghost hath made you overseers, to feed the church of God, &c.

pointed for it, and the (c) Gospel read at their Consecration, puts them in mind of it: Nay they formally promise it; for these are two of the Questions propounded to them by the Arch-Bishop—— (d) *Are you determin'd, out of the Holy Scriptures, to instruct the People committed to your Charge? — Will you then faithfully exercise your self in the same Holy Scriptures, and call upon God by Prayer for the true understanding of the same, so as you may be able by them to teach and exhort by wholesome Doctrine, and to withstand and convince the gainsayers?* To which the Bishop answers, (e) *I am so determin'd by God's Grace: and, I will so do by the help of God.* And the practice of some of our Reverend Fathers does convincingly shew they are no Strangers to God's grace or help, in this particular. But will diligence in one duty, excuse the neglect of another? Doth not our Church pray Almighty God to (f) *give to all Bishops, the Pastors of his Church, that they may duly administer godly Discipline, as well as diligently preach the Word?* and, That they may faithfully serve Almighty God in this Office, to the glory of his name, and (g) *the edifying and well-governing of his Church?* And further, That they may be not only evermore ready to spread abroad the Gospel, but also (h) *use the Authority given them, not to destruction, but to salvation?*

And doth not the Bishop solemnly promise to *correct and punish according to such Authority as he hath by God's Word, as well as to such as shall be committed to him by the Ordinance of this Realm?* And the Arch-bishop charges him, when he delivers him the Bible, not only to take heed to Doctrine, but how he ministers Discipline too.

We can't think, after all this, that they do voluntarily neglect so essential a Branch of their Episcopal Office, as Governing the Church. Ruling and Discipline is their Duty according to God's Word; and if any Ordinance of this Realm hinder them from the discharge of a Duty God's Word hath laid on them, we think, if they should patiently bear it, they would give but a sad Account in that day, when the Great Bishop shall appear, when Pulton's or Keeble's Statutes are none of those Books that shall then be open'd.

We are sure, that this Work is a thing of the highest Trust and Authority, and wherein the greatest skill and tenderness is requisite; and therefore we think it should be personally discharg'd, and can't lawfully be deputed to another. For, as the Lord Bacon hath observ'd, we see in all Laws in the World, Offices of Confidence and Skill cannot be put over, or exercis'd by Deputy, except it be especially contain'd in the Original Grant; never did any Chancellor of England, or Judge in any Court, make a Deputy. — Surely ab initio non fuit ita; but 'tis probable that Bishops, when they gave themselves too much to the Glory of the World, and became Grandees in Kingdoms, and Great Counsellors to Princes, then did they deleague their proper Jurisdiction, as things of too inferior a nature for their Greatness; and then after the Similitude and Imitation of Kings and Counts Palatine, they would have their Chancellors and Judges.

'Tis, faith Bishop Bedel in his Defence, one of the most essential parts of a Bishop's Duty, to govern his Flock, and to inflict the Spiritual Censures on obstinate Offenders. A Bishop can no more delegate this Power to a Lay-man, than he can delegate a Power to baptize or ordain, since Excommunication and other Censures are a suspending the Rights of Baptism and Orders; and therefore the judging of these things can belong only to him that had the Power to give them; and the delegating that Power is a thing null of it self. It was ever look'd on as a necessary part of the Bishop's Duty, to examine and censure the Scandals of his Clergy and Laity, in antient and modern Times. And much more may be found to the same purpose in his Life.

But if this sacred Work must be put off to others, were it committed to the Hands of any of our Clergy, tho never so mean, we could bear it, out of that profound Reverence we have for their Gown and Character, as we d'off our Hats in a

Considerat:
for the bet-
ter Esta-
blish. of
the Ch. of
Engl.p.104

His Life,
P. 92.

P. 93.

Church
Censures in
Lay-mens
hands im-
proper.

(c) St. John 21. *Jesus saith to Peter, Lovest thou me more than these? — Feed my lambs. — Feed my sheep, &c. Mat. 28. 18. Go and teach all nations, &c.*

(d) See the Form of the Consecration of Bishops.

(e) See to the same purpose, the Collect immediately following *Veni creator spiritus*; and the Charge of the Arch-Bishop to the Bishop, when he

delivers him the Bible; and the first of the three last Prayers said for the last Collect immediately before the Benediction.

(f) See the first Collect in the Consecration of Bishops.

(g) See the Collect in the Consecration said next after the Litany.

(h) See the Collect after *Veni Creator*.

mean

mean Country-Church, that looks little better than a Pigeon-house, as well as in a Cathedral, for the sake of that GOD to whom the one is consecrated as well as the other. But we have hardly any patience left us, when we consider, That the Clergy both superior and inferior stand for Cyphers, and the whole Power of Excommunication is lodg'd in Lay-mens hands; for such are their Chancellors, Officials, Commissaries, &c. 'Tis a greater piece of *Sacrilege* for these Thieves to steal and run away with the *Keys* of the Church, than for any to carry off the *Communion-Plate*; Godly Discipline being a much richer Treasure than a Golden Chalice. We justly deride the Presbyterians, for their compound Assemblies, where the Minister and the Lay-Elder sit Cheek by Jowl, intermingl'd, like a Man and a Woman at a *Dutch Feast*: But that *Hotch-potch-Miscellany* is more tolerable than this Constitution of ours, whereby the whole Clergy being excluded, the Lay-Chancellor alone sits to *remit sins*, or *retain them*; Men that we are sure have no Commission from the blessed Jesus, or his holy Apostles, and have no Power to deliver any Souls up to Satan, unless it be their own. 'Tis true indeed, They have a Patent for it, and that sometimes given to gratify a Friend, sometimes perhaps purchas'd with a round Sum of Mony, whereby the present Bishops pass away this their Power from Themselves and their Successors too; and so they are render'd incapable of correcting their Extravagances and Corruptions, even tho they are committed in their Names, and by virtue of an Authority deriv'd from them: whereupon our Reverend Fathers bear the blame, and these Varlets reap the advantage of their unjust Proceedings. Nay, to that degree of insolence do they proceed, as sometimes to hector them if they offer but to interpose, to stop, or to rectify any of their illegal and oppressive Acts. Of this we have an instance given us by the Author of the *Naked Truth*; I don't mean the blustering *Hickeringill*, but, as is commonly believ'd, a grave and excellent Prelate of our Church. 'I remember (saith he) when the Bishop of *Wells* hearing of a Cause corruptly manag'd, and coming into the Court to rectify it, the Chancellor, Dr. *Duke*, fairly and mannerly bid him be gone, for he had no Power there to act any thing; and there-withal pulls out his Patent, seal'd by the Bishop's Predecessor, which, like *Perseus's Shield* with the *Gorgon's Head*, frightened the poor Bishop out of the Court.

P. 64.

Bp Bedel's
Life by Dr.
Burnet,
p. 88, 89.

Another remarkable Story of this nature we have in the Life of Bishop *Bedel*: He saw, and his Soul was griev'd at the barefac'd Extortions, and Briberies, and Commutations of Penance, and vexatious Suits, &c. in the Chancellor, that had bought his Place from his Predecessor; and the prostitution of Excommunications in a sordid and base manner. To correct these Abuses he goes, and with a competent number of his Clergy sits and hears Causes, and gives Sentence. But his Lay-Chancellor brought a Suit against him in *Chancery* for invading his Office: and tho the other Bishops stood by him, saying, *They were but half Bishops, till they recover'd their Authority out of the hands of their Chancellor*; and tho his Chancellor's Patent were a *formless Chaos of Authority confer'd on him against all Reason and Equity, wherein was false Latin, Nonsense, Injustice, Prejudice to the Chapter, Contrariety to it self and the King's Grant to the Bishop, and the Seal hanging to it none of the Bishop his Predecessor's Seal*; yet the Chancellor's Right was confirm'd, and there was given him an hundred Pound Costs of the Bishop. And great Endeavours were us'd to possess Archbishop *Usher* himself against him; which went so far as to procure an Inhibition and Citation against him out of his Court. All his Brethren forsook him, even the Primate himself, tho the last that did so; yet at length Almighty God so remarkably prosper'd the Zeal of this Holy Man, that he was conniv'd at, and held on undisturb'd in personally attending his Episcopal Court. God give to our *English Bishops* the like Courage and Success.

P. 102.

P. 97.

Thus the *Rooks* give check to the *King*, and the Lay-Chancellor in the Court proves too hard for the Bishop, as the *Devil* in the Sign of a *Tavern* doth for the Saint, *Dunstan* we mean.

Archbishops
Court.

But as tho this were not enough, matters yet are a great deal worse: For not only doth an Appeal lie to the *Court of Delegates*, of which we shall say nothing because 'tis his Majesty's; but there is also the Archbishop's Court of (a) *Arches*, where any Ecclesiastical Suits between any Persons within the Province of *Canterbury*, except

(a) Chamberlain's *Present State of England*, Part 2. p. 33.

some peculiar (a) Jurisdictions belonging to the King's Majesty, may, waving all Inferior Courts, be decided. The Official may take cognizance of all Ecclesiastical Causes whatsoever, not only at the instance of Parties, but also of his mere Office, or when they are promoted; as also all manner of Appeals (except as before excepted) from any Bishops, Deans and Chapters, &c. Arch-deacons, their Officials and Commissaries, or other Ecclesiastical Judges whatsoever; as also all Commissaries of the Archbishop of Canterbury, whether particular or special, within all or any Dioceses of his Province.

This Court is kept in the Archbishop's Name by his Official, who is the Judge of it, call'd also *Dean of the Arches*, a perfect *Layman*, usually a Knight, and Doctor of Laws. But he being for the most part absent, substitutes a *Surrogate* in his place (who is the Archbishop's *Man's Man*) viz. the Dean of the Deanery of the Arches.

And there doth this Judge (b) *Perkin* sit in state, and according to the old *Mumfimus* of the Pope's Canon Law alone, without any Assessors, hears and determines all Causes, without any Jury of twelve Men, as is necessary in Common-Law Courts; and presumes to sentence not only us Laymen, but the Clergymen also, and even Bishops themselves, for any Delinquency.

And as the Official treats our Superiors in the Arches, so doth the Lay-Chancellor handle us, and the Inferior Clergy in the Bishop's Court, held in the Cathedral of his Diocese. Only when any do not appear, being legally cited and propounded contumacious, and decreed Excommunicate, then the Plaintiff's Proctor offers a Schedule of Excommunication to the Judge, who reads it (c) *if he be in Holy Orders* (for you know a special Care must be taken of that) and if not, then it is given to one who is in Holy Orders, who is constituted to this purpose by the Judge. Good God! (saith the foremention'd Author of *Naked Truth*) what a horrid abuse is this of the Divine Authority! This notorious Transgression is excus'd, as they think by this, that a Minister call'd the Bishop's Surrogate, but is indeed the Chancellor's Servant, chosen, call'd and plac'd there by him to be his Cryer in the Court (no better) when he hath examin'd, heard, and sentenc'd the Cause, then the Minister, forsooth, pronounces the Sentence. Then the Judge's Seal being clap'd to them, away the Letters of Excommunication are posted to the Rector, Vicar, or Curate of the Parish, with Orders to publish the same in time of Divine Service, on some Sunday or Holy-day; always provided these Letters of Excommunication be deliver'd to the Rector, &c. at least that same day on which they are to be read, before Morning or Evening Prayers, that they may be sure to have timely notice of it, saith our (d) Author; which they are to publish without delay, unless they are willing to undergo the Fate of the Miller's Man who was hang'd for his Master; for if they neglect so to do, they are to be punish'd by Suspension from their Office: For, unless at his own Peril, the Parish Minister must no more examine the Equity and Justice of the Sentence than a Hangman does, but must do his Office tho' to the best liver in his Parish, be the Cause what it will, how unjust soever the Sentence is, or how illegally soever obtain'd. He must give fire when the word of Command is given; tho' he, good Man! know nothing of the matter, yet denounce the Excommunication he must, and give the rest of the People warning that they avoid the company of such a one; just as the two nimble Iron Sparks on the outside of St. Dunstan's Church, when mov'd by the Wires within, briskly turn about, and give a Thump on the Bell, that all may know what quarter of the hour it is.

2. But to proceed from Persons to Things. This we suppose no sober Man will deny, that Excommunication being a Punishment of an immediate Divine Original, Men should have a Divine Warrant in what Cases to inflict it. And being so severe a Punishment, no less than cutting off from the Body of Christ, and shutting out of the Kingdom of Heaven, as well as the Society of Christians on Earth, it should not be inflicted but for those black Crimes, and deadly Sins, and those obstinately persisted in too, for which the Holy Jesus hath declar'd, that Men do deserve that Amputation and Exclusion from Heaven, that so what is bound here below, may be bound above. And this being the Church's expulsive Faculty for the casting out of noxious Humours, her Weapon for the cutting off rotten and scandalous Mem-

Lay-Chancellor.

P. 63.

Nature and End of Excommunication.

(a) Consents *Practice of Eccl. Courts*.

(b) Chamberlain's *present State of England*,

Part 2. p. 273.

(c) Consents *Practice of the Spiritual Courts*, p. 36.

(d) Consents *Practice of Eccl. Courts*, p. 38.

bers, should be us'd to that end only, as we find in the *New Testament*, and many Centuries after it was, in the Case of Heresy or detestable Enormities, accompany'd with Contumacy. Now such Sinners swarm among us; we have such crouds of Adulterers, Drunkards, Swearers, Blasphemers, &c. that some of the Sons of our Church say, by way of excuse for the neglect of Discipline, it would not be prudent or safe to attack them. How few of these do our Ecclesiastical Courts take notice of? In *David's* Time the *Sparrows* were allow'd a Place near God's Altar; in our Days whole Herds of *Swine* have the same Privilege, and no one will or dare to drive them out. But if a Man trip in a Ceremony; if an honest, but simple Dissenter will not come to the Sacrament, because tho weakly, yet it may be conscientiously, he scruples Kneeling, or will not thro Obstinacy pay the Parson his Dues; or if the Governors of the State have a Political Design to carry on, out comes the Sacred two-edg'd Sword immediately, and they are cut off by dozens. We might refer the Reader to Dr. *Pinfold* as to this Point, who a very few years ago sweetly feather'd his Nest by this means; as those barbarous Wretches in some places that live by the Sea-side, rejoice at the sight of a Storm, and enrich themselves with the Wrecks of those that are unfortunately cast away. We our selves have known a Minister of our Church suspended for not burying a Corps in his Surplice, when the Surrogate bid him do it at the Grave: And a well-meaning, but stubborn Fanatick, sent to the Devil as an *Easter-Offering*, because he would not give his Parson one and two pence half-penny, and the obstinate Fool lay by it on a *Capias* in the Jayl for several Years.

Excommu-
nication for
a mere
trifle.

But it were well if the *Ecclesiastical Courts* did let fly only on these Occasions. For the neglect of a Religious Ceremony may by some be call'd a mortal Sin, and not paying the Minister's Dues is a *Fundamental* Point, and a piece of Sacrilege.

See Cou-
sins Apolo-
gy, p. 18, 19.

Causes
try'd in the
Spiritual
Courts.

But the Matter doth not stop here. For the Spiritual Courts have got to themselves the Cognizance of a multitude of Temporal Causes, viz. all Testamentary Matters, Matrimonial Causes (and these are numerous, for the Subject is fruitful) Jactitation of Matrimony, Divorces, Bastardy, &c. Defamations, Violence to a Clergy-man, Rights of Patronage, double *Quereles*, Wages for a Curate or Clerk, Interest and Title to a Benefice, Maintenance in it; such as Tithes of all kinds, Oblations, Obventions, Pensions, Mortuaries, Church-yard, &c. the Dues of a Parishioner to the Church, as to Reparations, Seats, Bells, buying of Books, Utensils, or other Ornaments; not building a Church enjoyn'd by a Testator, not keeping a Church in a comely sort, or when a Church-warden refuses to yield an Account of the Church-Stock; violating a Sequestration for Tithes not paid; hindering to gather or carry Tithes; Mony promis'd for redeeming corporal Penance, and detain'd; Fighting or Brawling in a Church-yard (I suppose, lest the Dead should be disturb'd and hinder'd of their rest). And then all Duties arising at first on the Exercise of *voluntary* Jurisdiction, and yet by denial made *litigious*; such be *real Compositions* sought by some Party to be disannul'd, Procurations, Pensions, Synodals, Pentecostals, Indemnities, Fees for Probates, &c. Or (which they to be sure will not forget, and therefore neither will we) Fees growing due, only upon exercise of *litigious* Jurisdiction; and these either due to the Judge himself, as Fees of Citation, Fees of Sentences, &c. or due to other Attendants in the Court, as Fees of Advocates, Proctors, Registers, Apparitors, &c. Lord! what a blessed Regiment of Causes is here, like that of the *Black-guard* for Spiritual Courts! Well, but tho most of these one would think were Civil Causes, and fit therefore for Civil Courts; yet let them come before the Spiritual Ones, if they please, as long as a *Layman* is the Judge of them. All that we stand on is this, they summon People to answer in all these Cases, and make Decrees; and if any one do not appear, or do not obey their Decrees, or not answer their Interrogatories, they are judg'd *contumacious to the Church*; and then there's *Death in the Pot*, and they have no other way to punish but by Excommunication. So that an honest Man is frequently smitten with the Church's Thunder, for matters of mere civil Right, or trivial Occasions; or it may be through the Tricks and Quirks of inferior Officers, or sometimes through the Ignorance of a blundering Surrogate, for the sake of a little Mony.

Fees arising in those
Courts.

Considerat.
for the bet-
ter Estab-
lishment
of the Ch. of
England.

Let us hear my Lord *Bacon's* Opinion of this Matter: *Excommunication is the greatest Judgment upon Earth, &c. and therefore for this to be us'd Irreverently, and to be made an ordinary Process to lacquey up and down for Fees, how can it be without derogation from God's Honour, and making the Power of the Keys contemptible? I know very well the defence thereof, which hath no great Force, That it issues forth not for the thing it self, but the Contumacy. — But the Contumacy must be such as the Party, as far as the Eye and Wisdom*

Wisdom of the Church can discern, standeth in a state of Reprobation and Damnation, as one that for that time seemeth given over to final Impenitence.

To this I think we may add their Device of excommunicating whole Communities of Men, as a Dean and Chapter, or a Master, Fellows and Scholars of a College, the Mayor and Aldermen of a Town, &c. Hereby they have in some measure that Emperor's Wish, that the People had but one Neck, that he might chop it off at one blow. By this (a) *Interdict* are prohibited all Divine Offices, as Divine Service, Christian Burial, Administration of Sacraments, &c. in such a Place, or to such a People: and if it be against a *People*, it follows them wheresoever they go; if against a *Place* only, then the People of that Place may go to Divine Offices elsewhere: Only the Pope's Canon-Law adds, (b) That some who are in a special manner privileg'd by the *Roman Church*, when a whole Country is interdicted, may celebrate Divine Offices with a low Voice, but then the Doors must be shut, the Bells must not be rung, and all the excommunicated and interdicted Persons must be excluded.

Communi-
ties excom-
municated.

By this Contrivance whole Communities of Men may be broken off from the Body of Christ, as whole Countries have been, and some say *Britain* in particular, from the Continent by the Fury and Violence of the Ocean. But it will be hard to reconcile this to the common Notion of Excommunication, that 'tis (c) *a precursory Judgment of Christ in the End of the World*; when we have been so often told from the Pulpit and Press, that then Societies shall not be punish'd as Societies, but every Man shall personally answer for himself.

3. We pass on to the manner of proceeding in Excommunications, which we shall find exactly suitable to the Causes for which they are inflicted, and the Tools that manage this Weapon: For here's no pains taken with Men to bring them to Repentance by Scripture and Reason, convincing them of the heinous Nature of their Offences, and beseeching of them in the Bowels of Christ. Only a bare pronouncing the words, *I admonish you*, three times in a breath; like the Jews whipping St. Paul with a triple Cord, and giving three Lashes in one. We had thought this had been a mere Corruption in the Officers: But we find one of their own Tribe tells us for Law, That a (d) *Man may be admonish'd a first, a second and a third time, all at one and the same moment*. Things are manag'd at these Spiritual Tribunals, just as they are at Civil ones: If you will not buckle, there's no other means us'd to induce you to it, but the Charges of the Court, the trouble of dancing Attendance on it; and by and by out comes the two-handled Rod and Blood-Pail to fright the stubborn Children into Obedience.

Proceed-
ing and
manner of
Excommu-
nication.

And these Fees of the Court sometimes are very terrible things, and touch a Man to the quick. As the Reckoning is inflam'd by a roguish Vintner, when his Guests are so with liberal drinking, by scoring up two Bottles for one at the Bar; so they know how to take the advantage of the Ignorance of those they have got into their Clutches, and top upon them double the Rates of what is by Law allow'd. I find one of themselves confessing this in sundry Instances in the Courts of the Archbishop of York, as to Testamentary Matters, and acknowledging the same in general as to other Fees, for Copies of Acts, Depositions of Witnesses, Fees to Apparitors, &c.

Fees of the
Court.

Take one Instance: (e) 'To a Judg for an Administration (where the Estate is above 40 l.) 7 s. 6 d. which advance from 2 s. and 6 d. (for that was the old Price according to the Table allow'd of in 13 Eliz.) 'was, as I have heard, saith he, in compassion to one of the Commissioners of the late Archbishop his necessitous Condition, agreed by all the Proctors and other Officers to be impos'd on the Country. Whether this Commissary be dead or no I know not, but till the Year 1685. this way of raising Money on the Country without Act of Parliament, did continue in this, and in many other Instances there enumerated by him, and I suppose doth so still: By the same Reason that the French King imposes Taxes on his Slaves, because he had Authority given him once to do it in Cases of Necessity, while the Kingdom was in a Flame. And tho he had a Law to do so for the present, which these Harpies never had, yet the foremention'd Author gives a substantial Reason for the thing that may supply the place of it: 'For, saith he, speaking

Id. ibid.

(a) Chamberlain's *Present State of England*, Part 2. p. 39.

(b) Decret. Greg. l. 5. Tit. 40. de Verb. signif. c. 17.

(c) Lord Bacon's *Consid.* p. 21.

(d) H. Conset. *Practice of Ecclesiastical Courts*, p. 383, 384.

(e) *Ibid.* p. 422, 423.

of the Registers, the Reason of Augmentation to them is, because they pay great Fines to the Archbishops for their Places (*and he that buys the Devil, must sell him*) and do again let them for a Term of Years to Deputies for great Fines; which Deputies have no way to raise their Monies but by this manner of Advance or Exaction upon the Country. Now I think the same Argument is altogether as strong for the *Surrogate*, who is the Chancellor's Deputy; for Chancellors and Officials have learnt the Art of making their Places *Sine-Cures*, committing them to the management of those Journy-men who are many times wretchedly ignorant, and so are often impos'd on by the inferiour Officers, by whose direction all Matters are dispatch'd (as the Clerk manages the Justice) and they to be sure will turn the Water into such a Channel, that it may most effectually drive their own Mills.

Ordinary
Proceedings
examin'd.

Confet.
p. 22, 23.

But supposing none of these *Blunders* or *Knaveries* be committed, let's a little examine the regular and ordinary Proceedings. And in order thereunto, we must consider there are two sorts of Causes, *Plenary*, i. e. such as require a solemn Order and Method; and *Summary*, where that being wav'd, a proceeding by a shorter Cut will serve the turn. Now what Causes in particular fall under each of these Heads, is kept very *dubious* for a very *profitable* Reason, viz. this, Tho the Cause be *summary*, yet you may proceed *plenarily*; and 'tis the more valid, and the Officers of the Court can the better lick their Fingers. But if the Cause should be judg'd to be a *plenary* one, and you should proceed *summarily*, then all the Proceedings are immediately null, you lose your Charges, and the Proctor gets; and the Pigeon-House of Cards being pull'd down, the Child must begin all again.

Now in *plenary* Causes out goes a *Citation*, either general or special, obtain'd by the Plaintiff, his Solicitor or Proctor, drawn by the Proctor, Solicitor or Apparitor, in writing, and seal'd by the Judg. Then the Mandatory, or the Plaintiff, certifies the manner in which the Defendant was cited, that so the Plaintiff's Proctor may draw an authentick Certificate thereupon, to which an authentick Seal is put, at the special instigation and request of the Mandatory.

Proctors.

Then you must have a Proctor, either *general* or *special*, to manage the Cause. For no Citation, tho executed, can be brought into Court but by him; he must be constituted by *Proxy*, i. e. by a Power or Mandate given to the Proctor by his Client to appear and transact for him, or before a *Notary Publick* with Witnesses, and this authentically seal'd to; And the Election of your Proctor must be inserted in the Acts of the Court; if he die after the *Suit is contested*, the Mandate is absolutely revok'd. Then supposing they have not got you on the hip for some Error as yet, however there be abundance of Blots yet to be hit. Many Exceptions may be brought in, *peremptory ones*, either *simply such*, or *defensive*; or *dilatory ones*, and these are twofold, *Dilatoria Solutionis*, where perhaps the Party alledges the payment or satisfaction of what is sued for; and *Declinatoria Judicii*, for declining the Cause, either by excepting against the Judg by *Recusation*, *Provocation*, &c. or by reason of the Plaintiff, or the Arbitrators, or Proctor, Advocate, Libel, Witnesses, Interrogatories, Publick Instruments, Positions, Sentence, &c. Besides these, there are two Squadrons more of Exceptions, *Mediae*, or mixt ones; and *Anomalee*, or irregular ones; each of which have their proper Seasons of being urg'd. And these must be drawn in Writing, and some body must pay for all this: For 'tis Mony makes these Beasts to go, without which they will not stir a foot.

Plenary
and Sum-
mary Cau-
ses.

What we have hitherto spoken of is common to all Causes, whether *Plenary* or *Summary*. What we shall further add (and there is much behind) agrees in its whole Latitude to the former sort of them. Suppose then that hitherto we be clear of all Rocks; then comes the Libel, but it must be subscrib'd by an Advocate, and possibly you may wait a little for it till next Court-day. This being at last given into Court, it often happens that it must be amended or alter'd, in many cases too tedious to reckon up. And you can't have any thing done to an old sute of Clothes, but you shall find an *Item* for it in a Taylor's Bill. Then follows the *contesting* the Suit: By this time the Defendant is call'd upon to put in his Answer; and unless he confess the Fact, either in part, or in the whole, as 'tis laid, and so casts himself on the Mercy of the Court, which is *contesting* a Suit *Affirmatively*, he must protest by his Proctor against the generality, ineptitude, obscurity, or undue specification of the Libel, and that the things contain'd in it are not true, and therefore what is contain'd in it ought not to be granted: And this is *contesting Negatively*.

Then

Then the Plaintiff alleges, that his Libel is in Articles, and he desires that the Judg may repeat it in full force of the Positions and Articles; which accordingly is done, and the Libel admitted with a *Salvo Jure Impertinentium & non admittendorum*, &c. On this the Plaintiff desires an Answer to the Positions of this Libel; whereupon the Defendant's Proctor replies, He don't believe the Positions to be true. Then the Plaintiff, by his Advocate, desires the Defendant may be decreed to be cited to answer personally to the Positions of the Libel, before the Judg or some Commissioners. The Defendant's Proctor dissents from this, and requests a Term to be assign'd to prove the Libel. And here both sides may squabble and brawl about it; but it must be by their *Seconds* (the Officers I mean) in Mode and Figure about the Time, that 'tis too short or too long; and either of them for that reason may appeal.

The Suit being contested, from Words the Proctors fall to Oaths, and either Side may lend his Client a *Swear*; the one, that he believes the Contents of the Libel are faithfully propounded; the other, that he will give a faithful Answer. Then the two *Principals* must take the Oaths of *Calumny*, the *general* one; and this is taken but once, and that either here or in any part of the Proceedings; and the *particular* one, call'd the Oath of *Malice*, to this purpose, that both of them believe their Cause to be good, that they will manage it honestly, and not protract the Suit, and give no Bribes, only the *Fees* are excepted to such Persons to whom the Laws and Canons do allow them. After this, their Proctors help them to keep these Oaths by staving off the Business, upon impertinent Quirks, for six Court-days, nay sometimes for two or three Terms; so that, saith our Author, Men complain exceedingly of these Abuses, that they *never knew any End of their Business after it comes into these Courts*.

Confess.
p. 92.

Well, the Citation, tho long first, at last is gotten out for the Defendant to appear and answer the Libel before the Judg, or the Commissioners; which Commission must be certify'd into Court that it hath been executed, and is sometimes paid for jointly, sometimes by one of the Parties only. The Defendant then puts in his Answer, which is either Categorical, Hypothetical, Modal, affirming or denying, finitely or infinitely; True, necessarily or contingently; False, or in equipollent Terms. Then the Defendant appearing personally, is sworn to make a faithful Answer to the Positions of the Libel, only his Proctor protests he don't intend to answer to any Criminal or Captious Position; or if he do, it shall be accounted Null. The next Court-day he is order'd to appear to be examin'd. But it may be he hath answer'd too little, and then he is summon'd again to answer more fully; it may be too much, and then his Proctor may subduct and revoke it.

Citations.

When this is settled, if the Witnesses won't come voluntarily on an offer of bearing their Charges, then come *Letters Compulsory* for them to appear before the Judg, or Commissioners; and a Commission is then granted to hear their Depositions within the *Term Probatory*. These Letters are return'd into the Court, and it may be the Witnesses can't be found; none of them, or but some of them do appear, and the Absenters are to be excommunicated; and this is often contriv'd on purpose, that hereby the *Term Probatory* may be prorogu'd, and so the Suit may be protracted, and the Charges increas'd.

Witnesses.

The Witnesses at last being got all together before the Judg, they are sworn: Then the Proctor protests against them, and any thing they shall say against the Intention of his Client, and desires a Day to be assign'd for propounding *Interrogatories*, which are to be given in by him into the hands of the Register, or Examiner. Then the Witnesses are privately examin'd, their Depositions put into writing by the Register, and sign'd by the Witnesses, and after repeated before the Judg, who examines them, Whether on their Oath it be all right and true? and whether they would have any thing alter'd? But their Positions are taken in *Latin*, because we suppose that's a Language that is like the *Universal Character*, which all, even the Country Jobbers themselves, do understand.

Now after this it may be, the Proctor on one side objects, that the Witnesses han't answer'd to some Interrogatories which they ought to do, or not fully; but he on the other side gives him the *Lie*, and so a Day is appointed for the Judg to inquire into this.

It may be the Witnesses are to be produc'd, not before the Judg, but the Commissioners; and then there's more ado in that Case than in this, which, to avoid tediousness, we omit.

For the same Reason we shall (tho we are yet come hardly half way) proceed no further, nor speak particularly to the publishing the Depositions of the Witnesses, producing more Witnesses, Exceptions which are numerous, and Replications which are as many, and answer the other, just as one Tally doth another; nor of Duplications and Triplications, and Quadruplications. For by all these ways is the Cause bang'd about between the Parties, and beaten to and fro like a Shittle-cock between two Battle-doors: Nor of dread Proofs, which are Instruments, either Publick or Private, and both of them of many sorts: Nor of the Assignment of the Term to hear Sentence, nor of the Suppletory Oath, given sometimes to one side, sometimes to t'other, to supply and piece out the defect of Proof.

Giving of
Sentence.

Besides and after all this, there's another long pair of Stairs, and 'tis the Third in order, that would break a Man's wind to get up, and that is, the giving of Sentence. And then when you think the matter is issued and ended, all is undone again by an Appeal, which if we should fully speak of, there are so many deep steps that we should be utterly tired, as to be sure the Plaintiffs and Defendants have been long e're this, by being carried up, and led down so many dark and winding Stairs in these enchanted Castles.

From what hath been offer'd, we plainly see, there's no difficulty in believing that to be a very great Truth that Dr. Burnet tells us of Bishop Bedel's observation, *Life p. 89.* that the Officers of his Spiritual Court drew People into trouble by vexatious Suits, and held them so long in it, that for three penny-worth of the Tithe of Turf, they would be put to five pounds Charges.

We have only one thing to add on this Head, and we leave it, that one half of the manner of their Proceedings hath not been told in plenary Causes: and tho many cramp Words have been used by us in what we have written, they are the proper Terms of Art; and there's a very large Vocabulary of them, necessary to be mention'd by us, if we should tell out the remainder of this Tale; which we forbear, lest Men should think we have a design upon them to send them to him whom the Officers of this Court deal so much with, and to whom *Hermolaus Barbarus* was fain to resort to understand the meaning of *Ἐντελέχεια*.

Consequences of Ex-
communication.

Dr. Cou-
lin's Apo-
logy, p. 8,
9, 10.

4. We should proceed to the Things that ensue upon Excommunication. And here it were easy to be very large in discoursing on the *Significavit* into the Court of Chancery in the Bishop's name, that the Person hath stood excommunicate forty Days, for the getting a Writ *de Excommunicato capiendo*, that he may be sent to Prison: And of the forfeitures of ten Pounds on every *Capias*; afterwards for not yielding ones self up a Prisoner on the Proclamation of the *Capias*'s. It is a liberty peculiar to the Church of England, (saith the Learned Advocate of these Courts) above all the Realms in Christendom that I read of, that if a Man stand wilfully forty days together Excommunicate, and be accordingly certified by the Bishop into the Chancery, that then he is to be committed to Prison without Bail or Main-prise; *quod potestas regia Sacrosanctæ Ecclesiæ in suis querelis deesse non debet*, because the Royal Power ought not to be wanting to Holy Church in her Quarrels. Yet we must confess we don't see how this can be justified, unless that Axiom be own'd for truth, that Dominion is founded in Grace; and when a Man is made as a Publican and Heathen, he loses all his Civil Rights.

Absolution
the way of
obtaining
it.

We might further speak of the several ways of Absolution from this Sentence, and that upon several little mistakes in the Form of Proceedings, and by Orders sent down from Civil Courts. For when a Man is fast bound one would think, there are many of these ways of unloosing him; as we have seen Children, that by the dextrous pulling of the right String, have immediately whipt off the Pack-thread from another's thumbs in a most surprizing manner.

Commuting
of Penance.

Bp Bedel's
Life, p. 89.

Id. p. 90.

We might further speak also of the commuting of Penance for Mony: 'Which, as Dr. Burnet well saith, is the worst sort of Simony, being in effect the very same abuse that gave the World such a Scandal, when it was so indecently practis'd in the Church of Rome, and open'd the way to the Reformation. For the selling of Indulgences is really but a commutation of Penance. Of this that good Bishop Bedel had so many, and such notorious Instances in his Diocess, that he bitterly bewail'd it, and to which he was able to reply nothing but that he had read in Mantuan of another place in the World, (Rome he means) where Heaven and God himself were set to sale.

Now from that little that hath been said, we may see how truly he spoke, when he said that a plain and simple thing is by these Men made very intricate. And that
amongst

amongst all the Impediments to the Work of God among us, there is not any one greater Id. p. 103. than the abuse of Ecclesiastical Jurisdiction. This is not only the Opinion of the most Godly, Judicious, Learned Men, that I have known, but the cause of it is plain.

[Blessed Jesu! who alone workest great Marvels, send down thy Spirit on our Bishops, that they may boldly whip these Buyers and Sellers out of thy Temple, that sit there only to dishonour thy Name, and sponge on thy People, and turn thy House of Discipline into a Den of Thieves. Amen.]

And we beseech God to encline their Hearts, and those of our Governors to do it, and not to suffer these Lay-Chancellors to meddle but in Civil Causes only, and there to endeavor to regulate their enormous Abuses; and in the Lord Bacon's Confid. p. 21, 22. Words, 'That in lieu of Excommunication, there be given to them some ordinary Process with such Force and Coercion as appertaineth, and that this Censure be restor'd to the true Dignity and Use thereof, which is that it proceed not but in cases of great Weight, and that it be decreed not by any Deputy or Substitute, but by the Bishop in Person, and not by him alone, but assisted by some others of his grave Clergy, according to the excellent Model of that incomparably Learned and Pious A. B. Usher.

Then will Discipline recover its antient Vigor and Splendor; then will Sinners no longer flight this Spiritual Sword in the Church, as Atheists do God's fiery flaming one that sometimes appears in the Heavens, as if it were a mere Meteor hanging in the Air, and made of fiery Vapors only; but will find 'tis a solid substantial thing, hath a real Point and a sharp Edg piercing into the very Depths of the Soul, and that it needs not corporal Penalties to set one upon it to that end.

Of removing Scandalous Ministers.

AND sure none that regard the Glory of Almighty God, or the Honour of our Church, or the Reputation of our Clergy themselves, can ever oppose so reasonable a Motion as this; for nothing has more expos'd our Holy Religion to Contempt, or encourag'd the Laity in their Vices, or sunk the Credit of our Clergy (not to say, of our Church it self) than the scandalous Lives of some of that Function. And since Examples have a more powerful Influence on the People than mere Precepts; 'tis no wonder that the Lives of flagitious Clergy-men bring in more Profelytes to Wickedness and Vice, than ever their Preaching will make Votaries to Religion and Vertue: for how should the best Advices and Counsel they can deliver from the Pulpit, make any great Impression on their Hearers, which they never follow themselves when out of it? They may long enough commend Vertue, and declaim against Vice, and urge what they say with Arguments drawn from the Rewards and Punishments of another World; but how should the People believe them, when they do not live as if they believ'd themselves? And while so many of our Clergy make no great scruple of Conscience to Drink and Whore, and Swear and Game, and Droll on the Bible, and profane the Sunday, and neglect the most important Duties of their Pastoral Charge; 'tis no wonder if the Laity think themselves authoriz'd to take the same Liberty which they see us'd by those whom they look on not only as their Instructors, but their Patterns too. It was a just Observation of the late Earl of Rochester, that that one particular Vice, viz. the base Arts of some Clergy-men in aspiring to the high Preferments of the Church, had possess'd many of the best Quality in the Nation with that wretched Idea of Religion that greatly dispos'd them to Atheism: For they look'd on that sacred Profession as a Holy Cheat, a Trade of talking well, and living ill. 'Tis high time then to redress this Corruption, to rid our Pulpits and our Altars of such as stain them with their profane Breath and unhallow- 1 Sam. 2. ed Hands, and like the wicked Sons of Eli, make the very Offerings of the Lord 17. to be abhor'd. And we are sure our Church may as well spare them, as a beautiful Face may those Blotches and Scabs that serve only to disfigure it. And yet in all the Book of Canons, we find not one that expressly orders the deposing a scandalous Clergy-man. There is indeed a * Canon against such Ministers as omit the use of any Form of Prayer, or any Rite or Ceremony whatever prescrib'd in the Service Book, to suspend them for the first Fault; if they persist a Month in it, to No Canon against scandalous Clergy-men. excommunicate them; if another, to depose them: and † another to make void the * Can. 38. † Can. 54. Licenses of all such Ministers as refuse to conform to the Laws, Institutes, and Rites of our Church. So that we cannot blame her for not taking sufficient care to

- Can. 68. to purge out of all her Sons, that scandalous Sin of Nonconformity. For there's another Canon to seclude from the Ministry for three Months, every Minister that shall refuse to baptize any Child that's brought to him (be the Parents Christian, Mahometan, or Pagan) or bury any (except the Excommunicate, &c.) according to the Form prescrib'd in the Liturgy. Another Canon forbids Ministers either to appoint or keep Fasts either in publick or private Houses, without the leave of the Bishop, threatening them with Suspension for the first time, Excommunication for the second, and Deposition for the third. A Canon which we think might very well be spared, for People need very little to be dissuaded from that sort of Mortification; and the Ministers will be very loth to attempt it, when they are oblig'd to double Penance, to go on Pilgrimage to the Bishop one Day, and fast the next. Another Canon there is against all Meetings or Clubs of the Clergy to plot any thing against the Doctrine of the Church, or to the Prejudice of the Common-Prayer-Book, threatening them with Excommunication. A very provident Canon indeed, that seems to have been made by a Spirit of Prophecy against *Smectymnuus* and the Latitudinarians: And 'tis very probable those of our Clergy who were so full of Indignation against the late Commissioners, mistook them for such a plotting Conventicle. We need not insist on the 74th Canon which prescribes the Clergy their several Habits, and very prudently cautions them against wearing light-colour'd Stockings, and charitably allows short Gowns to the poor Curates that have not Mony to buy long ones. But setting aside these hainous Crimes; we find only this one Canon against other Immoralities. viz. 75. *No Ecclesiastical Persons shall at any time, other than for their honest Necessities, resort to any Taverns or Ale-houses, neither shall they board or lodg in any such Places: Furthermore they shall not give themselves to any base or servile Labour, or to Drinking or Riot, spending their time idly by Day or by Night, playing at Dice, Cards, or Tables, or any other unlawful Game. But at all times convenient they shall hear or read somewhat of the Holy Scriptures, or shall occupy themselves with some other honest Study or Exercise, always doing the things that shall appertain to Honesty, and endeavoring to profit the Church of God, having always in mind that they ought to excel all others in Purity of Life, and should be Examples to the People to live well and Christianly, under Pain of Ecclesiastical Censures to be inflicted with Severity according to the Qualities of their Offences.*

Short
Gowns al-
low'd the
poor Cu-
rates.

This Canon indeed speaks something to the Purpose, and yet we would beg leave to suggest two things relating to it.

Scanda-
lous Clergy
threatned
with Ex-
communi-
cation, not
Deposition.

1. We suppose this Canon only threatens the scandalous Clergy with Excommunication; for it does not, as the 38, 72, &c. threaten them with Deposition on their persisting incorrigible. Whereas that too is highly necessary, there being all the Reason in the World that obstinate Nonconformity to the Laws of God should at least be equally punish'd with stubborn Nonconformity to the Laws of the Church; for it would look but very odd to treat a Minister more severely for omitting a Collect in the Service-Book, or keeping a private Fast, than for being drunk, or lying with his Neighbour's Wife.

2. We wish that this good Canon it self may not stand for a Cypher for want of Execution. And yet hitherto all the good Effects that might have been expected from it to free our Churches from such leprous and unclean Priests, have been in a great measure frustrated. For we do not see that one in twenty, of such whose notorious Vices make too publick a noise to be unobserved, was ever excommunicated, much less deposed for them. We speak within compass, and heartily lament the intolerable Mischiefs that from this fatal Source overflow our Church. And therefore we would humbly recommend it to the Wisdom of the Convocation, to take the most effectual Methods for the obviating of them; and (if it might be no offence) we would take the liberty to suggest that if the Rural Deaneries in Archbishop *Usher's* Model were restor'd, they might first receive Complaints against such, and suspend them till the Matter come before the Diocesan Synod. Were this done, and were all our Clergy such excellent Ornaments of their Profession, as (God be thanked) a great many of them are, the Dissenters would not so easily gain ground upon us, as they have hitherto done by the pretended strictness of Life in their Ministers, and their great Laboriousness in the Duties of their Function.

Of the Reformation of Manners both in Ministers and People.

IN the Ministers.] What relates to such as are chargeable with scandalous Immoralities was consider'd under the former Head; but under this Head, we would humbly recommend to the present Convocation, the reforming two very gross Corruptions retain'd in our Church, notwithstanding all the loud Complaints that have been made against them, *Pluralities* and *Non-Residence*, two Diseases that have hitherto defy'd all Remedies, and have been rather cherish'd by our spiritual Physicians, than any thing effectual attempted towards the cure of them. And no wonder when many of the same Men were the Patients that should have been the Physicians; so hard it is to redress these grand Evils in a Synod where the greatest Pluralists and Non-Residents do commonly make up the major Vote: and yet these are so notorious Blemishes in a Church, that even the Council of *Trent* could not for very Shame but take notice of them. And the Truth is, tho they have in their best Decrees of Reformation left a Hole to creep out by virtue of Dispensations, yet their Canons are far more strict than ours: for in their Decree of Reformation, *Sess. the 7th. cap 2d.* they forbid any Prelate having more Metropolitan or Cathedral Churches than one in *Commendam*, accounting him happy that can govern one well. And *cap. 3d.* They enjoin the Collation of inferior Ecclesiastical Benefices that have Cure of Souls, on worthy and able Persons who may reside on the Place, and take care of the Flock themselves; and by the *3d* deprive that Clergy-man of all his Benefices that retains more than one, whether by way of Union for Life, or perpetual *Commendam*, or any other Title, &c. Only all these good Canons are spoil'd, and by the wretched Art of Dispensations made only a more subtle Trick of drawing Mony into the Pockets of those that grant them. And *Sess. 23d. cap. 1.* Their Decree of Reformation against *Non-Residents* begins thus: *Since all to whom the care of Souls is committed, are enjoin'd by Divine Precept to know their Sheep, to offer Sacrifice for them, and to feed them with the preaching of the Word of God, the Administration of Sacraments, and the Example of their good Works, to take a fatherly Care of the Poor and all other miserable People, and discharge other pastoral Duties, all which can never be perform'd by those that do not watch over and assist their Flock, but like Hirelings forsake them, &c.* See also *Sess. 6. Cap. 1st, and 2d.* And what they say is far more applicable to Parish-Churches than to Metropolitan or Cathedral.

But to return to our own Church: For *Pluralities* I find only this one Canon about them, viz. 41.

No License or Dispensation for the keeping of more Benefices with Cure than one, shall be granted to any, but such only as shall be thought very well worthy for his Learning, and very well able and sufficient to discharge his Duty, i. e. Who shall have taken his Degree of a Master of Arts at least, in one of the Universities of this Realm, and be a publick and sufficient Preacher licens'd: Provided always that he be, by a good and sufficient Caution, bound to make his personal Residence in each of his said Benefices, for some reasonable time in every Year; and that the said Benefices be not more than 30 Miles distant asunder. And lastly, That he have under him, in the Benefice where he does not reside, a Preacher lawfully allow'd, that's able sufficiently to teach and instruct the People.

A Canon that rather approves and strengthens, than corrects so shameful an Abuse. For what restraint can it be imagin'd to lay upon it? A Man needs no higher Qualifications to capacitate him for being a Pluralist, than that he be a Master of Arts, and a lawfully approv'd Preacher. Here are no Bounds set to the number of the Benefices he may enjoy, but that they should not stand above 30 Miles from one another; so that a Man may enjoy the same number of Benefices, provided he can bring them within that Compass of Miles. And I wish that the Avarice of some could be held within those wide Bounds too.

Nor is the reasonable Time in which he must reside yearly in every one of them determin'd, but left to his own Discretion.

And now what Apology can be made for so unreasonable a Practice? Let us suppose a Pluralist to engross four or five good Livings to his own Share. The best Restriction laid on him by this Canon is, That he keep in every Living, where he resides not, an approv'd Preacher that may profitably teach and instruct the People. But if these four Preachers that supply his place in four of the Parishes, be Men of those

Inconvenience of Pluralities.

those Abilities that fit them for discharging all the Duties of their Function to the People, what tolerable Reason can be given why they should not enjoy all the encouragement to their Labor which the Parish-Tithes were design'd to give them? Why should the main part of the Profits of four Parishes be swept away by an idle Drone of a Pluralist, that saunters about in his Coach, and swims in Luxury and Ease, but never took the least care of them, unless perhaps once in a Year to give 'em a kind of *Visitation Sermon*; while the poor Ministers that reside among them, and bestow all their pains and time upon them, scarce earn their Bread with the sweat of their Brows, but struggle under those Discouragements of a stingy Allowance that starve their Parts, and sink their Spirits, and too often put them on doing those things which render them mean and contemptible. For by that time a poor Curate has provided Bread for his Family, and perhaps a Gown and Cassock for himself, out of his 20 or 30 *l. per Annum* he'll find very little left for the increase of his slender Library, and much less for those Works of Charity, whereby he should keep up that Esteem and Interest in the Hearts of the People, that's so highly conducive to the success of his Instructions upon them. So that while the number of Pluralists is so great, and their Covetousness far greater, it cannot be expected, where the Salary they allow is so despicable, that they should ever provide for some of their Cures any better Priests than those of *Jeroboam*, made of the meanest of the People; such as may thank God that our Church has furnish'd them with a Liturgy, and some of our learned Clergy with Sermons for every Sunday of the Year. And what Account will such *mercenary* Pastors (as the Council of *Trent* it self calls them) give to the universal Bishop and Shepherd of those Flocks whom they have starv'd to fill their own Purses? Or whence can the greedy Humor of heaping up so many Steeples spring, but from that wretched insatiable *Love of Money*, which is so unbecoming a Clergy-Man, who pretends a Concern for the Salvation of Souls, and therefore should not gratify his filthy Lucre at the price of their Blood?

We are so far from speaking this, as grudging the Clergy the just Encouragement of their Labors, that if a more fair and just distribution of the legal Maintenance would not sufficiently provide for all, we should think it worthy the pious Zeal of his Majesty, and the Parliament, to find out ways of supplying that Defect. But in the mean time, as the difference of the Value of Benefices will have room enough to reward the different Abilities of the Clergy, so we cannot but regret it, that the greatest Load of excessive Preferments is usually heap'd, not on those that deserve, but on those that seek them. The importunate Ambition of the latter putting them on those base Methods to compass their Design, which the Probity, as well as the Modesty, of the former debar them from.

Non-Residence.

Having said so much about Pluralities, we shall be more brief on the other Head of *Non-Residence*. We shall not insist on the 42, 43, 44 Canons, which relate to the Deans, Prebends, and Canons in the several Cathedrals and Collegiate Churches, because those concern the Clergy more than us. Only we cannot but commend the great care of our Church in its Injunction to the Deans, who must providently see that the Petty-Canons, Vicars-choral, and other Ministers of the Church, have a *Latin* as well as *English Testament*. We suppose this Caution was, lest the lazy Fellows should forget all they had learn'd at School; and *Greek*, it seems, is as little expected from them as *Syriack* or *Arabick*.

The 45 enjoins the Resident Clergy one Sermon every Sunday, when they have not just Impediment. The 46 and 47 run thus.

46, Every benefic'd Man, not allow'd to be a Preacher, shall procure Sermons to be preach'd in his Cure once in every Month at the least, by Preachers lawfully licens'd, if his Living in the Judgment of the Ordinary will be able to bear it. And upon every Sunday when there shall not be a Sermon preach'd in his Cure, he, or his Curate, shall read some one of the Homilies prescrib'd, or to be prescrib'd by Authority, to the Intent aforesaid.

47, Every benefic'd Man licens'd by the Laws of this Realm, upon urgent occasions of other Service not to reside upon his Benefice, shall cause his Cure to be supply'd by a Curate, that is a sufficient and licens'd Preacher, if the Worth of the Benefice will bear it. But whoever has two Benefices, shall maintain a Preacher licens'd in the Benefice where he does not reside, except he preach himself at both of them usually.

These Canons, especially the former, do so evidently expose themselves, that they save us the labour of any long Remarks upon them. We cannot but think it strange, that a Man may be the Incumbent of a Cure, and consequently enjoy both the

the Name and the Revenues of a Minister to that People, who is not so much as *licens'd to preach*; nay, is so mere a Lay-man, that according to *Can. 49.* he must not take on him to *expound, in his own Cure, or elsewhere, any Scripture or Matter of Doctrine*: and the highest Privilege allow'd him is, That he study to *read plainly and aptly* (without *glozing or adding*) the *Homilies* already set forth, &c. I perceive there may be *Ignoramus Ministers*, as well as *Lawyers or Jury-men*; and if our Church do not wrong them, by the severe restraint this Canon lays on them, they are more fit to be sent to *School* to *con* their Lesson, than into the Pulpit to instruct the People. But tho we cannot admire the Wisdom of our Church in allowing such Men Benefices, yet we must acknowledg her great Charity towards them and their Curats, in providing so good a help as the Book of *Homilies*, for those whose *Eyes* are the only considerable Talents that God Almighty has thought fit to bless them withal.

We shall add no more under this Head, but that we wish the *Simoniackal Oath* *Simony.* were strong enough to keep out all secret Arts of purchasing Preferments. And we think it highly advisable, that according to Archbishop *Usher's Model, Artic. 2d.* in every Rural Deanery, the Ministers of particular Parishes might be censurable for Errors, or gross negligence in their Office, &c. with liberty of Appeals to a Diocesan Synod if need be.

But that the Clergy may not think us in these two Articles too severe on them, and partial to our selves, we shall propose it to the Wisdom of this Convocation, Whether the Power of *Patrons* in presenting to Livings, should not be so far restrain'd as not to impose a Minister on any Parish without their own Consent? The very Learned Bishop of *Salisbury* in his *Regalia*, as well as others, hath made it undeniably evident, that this was the practice of the Universal Church for 600, if not 1000 Years after our Saviour's Time. And therefore tho we would have so much regard paid to the Charity of our Ancestors, as not to exclude Patrons from a Privilege enjoy'd on that score by so long Prescription, yet we could be heartily glad 'twere rendred consistent with this antient Privilege of the People too, that the Primitive Practice in this particular might be reviv'd. If indeed the Parson alone were to be sav'd or damn'd, not only for himself but his Parishioners too, 'twere no great matter to the People who he be; but if they must answer for their own Souls, 'tis but reasonable they should be satisfy'd whom they trust with the conduct of them.

And how liberally soever Patrons have endow'd any Churches, 'twere but a hard Bargain they make with the People, to require them, by implicit Faith, to acquiesce in whatever Ministers they or their Heirs shall ever recommend to them.

Nay, some would not have Patrons impose on our Clergy, any more than on the People. There are several secret ways of purchasing a Benefice, which some Patrons oblige the Clergy to, without making a down-right Bargain: And we would not have so much as the courting an *Abigail* to be the price of it.

Of reforming Manners in the People.

LEST the Fear and Apprehension into which the words *Alteration* and *Review* have cast the Author of *Vox Cleri*, should be fatal to him, we shall now labour to recover him, by assuring him, that there are some of the old Canons we desire may be reinforc'd, and that the Subjects to which they relate may be consider'd and examin'd, *viz.* Such as order the Censures of the Church to be inflicted upon all Persons notoriously wicked, that they may be hindred from coming to the Blessed Sacrament with such Frequency, and in such Numbers as they now ordinarily do; particularly *Can. 26.* which runs thus:

' No Minister shall in any wise admit to the receiving the Holy Communion any of
' his Cure or Flock, which be openly known to live in notorious Sin, without Re-
' pentance; nor any who have maliciously and openly contended with their Neigh-
' bours, until they shall be reconcil'd: Nor any Church-warden or Side-man, who
' having taken their Oaths to present to their Ordinary all such publick Offences as
' they are particularly charg'd to enquire of in their several Parishes, shall (not-
' withstanding their said Oaths, and that their faithful discharge of them is the
' chief Means whereby publick Sins and Offences may be reform'd and punish'd)
' wittingly and willingly, desperately and irreligiously incur the horrible Crime of
' Perjury, either in neglecting or in refusing to present such of the said Enormities
' and publick Offences as they knew themselves to be committed in their said Pa-
rishes,

‘ rishes, or are notoriously offensive to the Congregation there : altho they be urg’d
 ‘ by some of their Neighbours, or the Minister, or by their Ordinary himself, to
 ‘ discharge their Consciences by presenting them, and not to incur so desperately
 ‘ the said horrible Sin of Perjury.

Scandalous
 Persons
 how to be
 treated.

We do now humbly request that according to this Canon, some effectual Provision may be made to hinder all such wicked Persons from our Communion, which are a scandal and reproach to any Church, much more to ours. That the Matter may be seriously debated and weighed, and whether more proper Methods than those hitherto resolv’d on may not be found out and settled. For to speak on the behalf of the Laity, as the imposing such a Task on us or the Church-Wardens, is very hard and severe, so it hath been unsuccessful to the Purpose for which it was intended, and is likely always to prove so, tho the Canon says that the Church-wardens and Side-mens faithful discharge of their Oaths in presenting Offenders to the Ordinary, is the chief Means whereby publick Sins and Offences may be reform’d and punish’d. For it cannot be probably expected that they should discharge this Office with that Fidelity and Care which is requisite in a Business of such importance : If we consider either the Manner of their present choice, the Multiplicity of secular Affairs in which they are unavoidably engag’d, the Temptations to which they may be expos’d, either by Neighbourhood, Acquaintance, Friendship, or dependance upon others ; and not to mention the small Reverence which is paid to Oaths by the generality of Persons in this dissolute Age, which ought to be consider’d ; nor the Tricks of waving the taking them, which the Corruption of our Spiritual Courts hath supply’d us with : It cannot be imagin’d but that while Men are call’d to this Office by turns, and the worst as well as the best Parishioners are chosen to it ; and while Men are govern’d by their worldly Interest, either no Presentations at all should be made, or those that are should be *omnia bene*. Besides, should these Lay-officers be Persons of Sobriety and Integrity, and out of regard to their Oaths, the Peace of their own Consciences, and the good Comfort of their Christian Neighbours, make exact and just Presentations, yet according to our present Constitution they are bound to carry them into the Spiritual Courts ; and what becomes of them when they are lodg’d there, all the World knows ; instead of imposing sutable Penances, Money shall be extorted by a body of Men who have already shew’d us, that they can set Indulgences to sale, and that they are willing Men should ruin their own Souls, and go very quietly to Hell, provided they will pay them toll for their Passage. We are therefore of the Opinion, that the present Convocation should consider whether the Inspection into the Manners of the People should not be intrusted solely with the Ministers and Priests, and this determin’d and judg’d to be one part of the Pastoral Care ; whether it be not now absolutely necessary to authorize and impower all Ministers and Curates to observe the Lives of their Parishioners, to admonish them privately and publickly, to pronounce the Censures of the Church, either of Suspension or Excommunication, according to their several Lives and Offences. They may be appointed to do all this in subordination to the Bishop or the Ordinary ; tho we think ’tis requisite they should be exempted from the Jurisdiction of the Spiritual Courts : they may be still accountable to the Bishop, and be oblig’d to acquaint him with the Reasons and Manner of their Proceedings, and be liable to be punish’d by him, if they either misbehave themselves, or neglect their Duty. Let this Authority and Power be invested in them in such a Subordination, and let it be declar’d and esteem’d as an essential Branch of the Pastoral Office, and in our Apprehensions it will be a more effectual way to redress this disorder than the other. That which suggests and encourages this Proposal is our Communion-Rubrick, which requires all Persons that intend to communicate, to send in their Names to the Curate, and orders him to admonish those that are unfit, that they should not presume to come. Now if this were duly observ’d, and the Curates likewise impower’d to reject such as shall, notwithstanding their Admonition, dare to present themselves, and to pronounce either a Sentence of Suspension or Excommunication against them ; we conceive this will be a more proper and effectual Method to preserve our Communions pure, than that other of committing it to the Church-Wardens, who are too often careless and unconcern’d about a Matter of such a Spiritual nature, or such as deserve to fall under the Censures of a Church themselves. It will be no hard matter for the Convocation to fix and settle this Authority and Power, that the Curates should be invested with its just Bounds and Limits : This we propose with all Humility to Persons, that by their Sagacity and Wisdom may soon find out better Ways than we are able to do. But that which we earnestly

earnestly and importunately request is, that since his Majesty hath put an Opportunity into their hands of reviewing the old Canons and making new, they would resolve upon some course for the preventing Men of the most profligate Lives and Principles from joining themselves to our Communion, and partaking of the most Holy Sacrament: and we hope the Author of *Vox Cleri* and others of the same stamp, will not charge us with a Design of pulling down the House, since we only demand that these Spiders which have fill'd every Corner of it with their Cobwebs and Venom, may be swept out; and are willing that the Besom with which it is to be done, should be put into the hands of our Priests and Clergy.

The Reasons of our Request are such as these.

1. Because, according to the Doctrine of our Church, these Persons have no Right at all to partake of the Sacrament, and to celebrate these Holy Mysteries; for she appoints the Curate (a) *to advertise and admonish such as these, that in any wise they presume not to come*: In her Exhortation she tells us, that it is to be administered only to those who are devoutly and religiously dispos'd; and that if any who do not repent of their Sins, but live in them without Amendment, do come, the Communion does nothing else but increase their Damnation. And we are told (b) that Persons that live in Variance and Contention, or in any known Sin, must not be admitted, because 'tis contrary to the Communion of the Body and Blood of Christ. So that these Men are really Intruders, and thrust themselves as Guests to our most holy Tables, contrary to the express Commands of the Church; and when we desire that they may be cast out, 'tis no way injurious or prejudicial to them, but tends to their Benefit and Advantage: 'tis as charitable and just, as to snatch a Cup of Poison out of the hands of a Madman, who is boldly going to drink it.

Reasons
for keeping
wicked
Persons
from the
Sacrament.

2. The admitting such Persons to the Sacrament is a very high Incouragement to the Debauchery and Wickedness that now reigns among us: when these shall have as free an Access to this Holy Table as Persons of the highest Sobriety and Virtue; when they shall shelter themselves under our very Altars, and none have any Power or Commission to pluck them from thence, what can be expected, but that Impiety and Profaneness should overflow us as a mighty Stream? They have already learned to stop the Mouths of their own Consciences, and our Mouths too, when we offer to rebuke them, by saying that they are good Christians, and Members of the Church as well as we; they persuade themselves that their being of our Church here doth give them an undoubted Title to a Place among the Assembly of the First-born: and while they have such Apprehensions as these, we must expect they should indulge themselves in all manner of Immoralities. And now shall the Holy Sacrament be prostituted to countenance and incourage such fatal Presumptions as these, to strengthen the Hands of the Vile, and cause them to commit Sin with all imaginable Boldness, and without any Remorse? Shall we turn the Cup of the Blood of Christ into the Cup of Devils, as the Apostle expresses it in 1 Cor. 10. 21. not only by permitting those who offer up themselves as Sacrifices to the Devil to drink of it, but by making it as effectual to the promoting the Interest of Satan, as tho he himself had really instituted it?

3. Because such a Practice as this tends to the increasing the Numbers of the Dissenting Conventicles. For tho they are not without faulty Members as well as we, yet it must be confess'd that they are very careful to keep or purge out all that are openly scandalous in their Lives. We indeed excel them in our Episcopal Government, the Decency and Order of our Worship, in the Numbers of sober and learned Clergy; but in this Particular we are more defective than they, there is not so much of this unhappy Leaven among them, as there is among us: so that many Persons of strict Piety, who are burden'd and griev'd with this Disorder, will be tempted to desert us, and join with them; and they being not acquainted with the Distinctions of learned Men, will be more easily led into such an Error. And if a speedy Reformation be not made in this Matter, we must expect the Numbers of those who are the greatest Ornaments of our Communion, out of a pretended Concern for their Edification, will leave us. For,

4. We must now acknowledg and declare, that the Admission of such as these very much hinders our Edification, and makes us take the Holy Sacrament with much less Joy and Comfort than we might otherwise do. As we belong to a Church that not only recommends the most enlarg'd Charity, but is celebrated for it, so we hope we

(a) Rubrick Communion, Exhort. bef. Commun.
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(b) Q. Elizab. Injunctions, apud Sparrow, p. 74.
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are not without some Measures of that Love to God and the Souls of Men, which she requires in all her Communicants; and being influenc'd by this, we cannot with unconcern'd Eyes and Hearts behold these Men at once profane the Name of God, and eat and drink Damnation to themselves, *i. e.* as our Church explains it, (c) *Diseases, Death, and the Wine of God's Wrath.*

Scandal of
admitting
such to
Communion.

'Tis with a great and sincere Sorrow that we observe Persons guilty of the highest Impurities allow'd to come to the Holy Communion, who ought to be driven from it. Our Peace and Benefit would be much greater in our Approaches to it, if we did not find there some who but a few hours before were venturing their Lives in the Quarrel of a Strumpet; others who spent the last Night in Revelling and Drunkenness, and when they join themselves to us, seem to take us for a Crew of merry Companions; others that just before the Communion were belching out Oaths and Curses, and soon after the end of it will pour out whole Volumes of them again, &c. and if there were none allow'd to kneel there, but such as were sober and virtuous, devoutly and religiously dispos'd. We must therefore be excus'd, if after so long a silence we take the liberty to express our Resentments in this Matter, and to declare that we do, with a very passionate Grief, see the Holy Bread and Wine touch'd by such polluted Hands, and unhallow'd Mouths, especially when we fear and expect, that after the taking of these (according to the Threatning denounc'd by our Church) (d) *The Devil should enter into them as he did into Judas, to fill them full of all Iniquities, and bring them to destruction both of Body and Soul:* And we would add, that while we have a warm and zealous regard to the Honour of God Almighty and his Sacraments, and the good of others, we shall have the same sense and apprehensions.

But to conclude this Subject, that our present Convocation may be stirred up to a more vigorous Zeal and Diligence in the framing new *Penitentiary* Canons, or reforming the Old, we would with all modesty and submission remind our Fathers and Guides now assembled, of the Promises they made at their several Ordinations, and of the solemn Charge they receiv'd from our Church; which is in these words: (e) 'Wherefore consider with your selves the End of your Ministry towards the Children of God, towards the Spouse and Body of Christ; and see that you never cease your Labour, your Care and Diligence, until you have done all that lieth in you, according to your bounden Duty, to bring all such as are, or shall be committed to your Charge, unto that agreement in Faith and Knowledge of God, and to that ripeness and perfectness of Age in Christ, that there be no place left among you, either of Error in Religion, or for viciousness of Life. And since we shall not entertain a suspicion of their readiness to discharge their Offices with the utmost fidelity, of their willingness to pay a chearful Obedience to the Commands of our common Mother, we will not question their gratifying our Desires in this Particular.

Of the Examination of such Persons as desire to be admitted into Holy Orders, both as to their Learning and Manners.

'TIS the unhappy neglect of this, has not only over-stock'd our Church with a shoal of supernumerary Clergy, but given too many the opportunity of crouding into Holy Orders, whom their Parents only thrust on the Service of the Church, because they knew not how to dispose otherwise of them. And yet it must be own'd, that the Canons of our Church are not altogether chargeable with this Neglect: For the 35th Canon enjoins the Bishop, before he admits any Person into Holy Orders, *to examine him, in the presence of those Ministers that shall assist him in the Imposition of Hands; or at least take care that the foresaid Ministers examine him if he have any lawful Impediment.* We could heartily wish the Bishop might accordingly do it more constantly himself, in the presence of such as assist at the Ordination, and not leave it so generally to the Arch-deacon, or one of his Chaplains. And 'twere highly advisable that the particular Trials which every Candidate for Sacred Orders must pass, in order to give a good Specimen of his Proficiency in Humane Learning, and especially in the study of Divinity, were prescrib'd: For it can by

(c) *Exhortation before the Communion.*
(d) *Exhort. before the Communion.*

(e) *Form of ordaining Priests. Sparrow, p. 125.*

no means be thought a sufficient Evidence of a Man's being qualify'd for that Sacred Function, that he can construe a piece of the Latin Testament; and resolve that grand Question of *Quot sunt Symbola?* &c. The admirable Care of many Foreign Churches, particularly the Reformed Churches in *France*, about the admission of their *Proposants*, is a very commendable Pattern. And even in this Point the *Directory* (how idle a Book soever it may be in other things) has the advantage of any thing prescrib'd in this Canon, which is too lax and general. And we would further offer it to consideration, Whether what the 34th Canon enjoins in the Case of a Bishop's ordaining a Man that is not of his own Diocese, should not hold also in his ordaining those that are; viz. That he ordain no Person but such as shall exhibit *Letters Testimonial of his good Life and Conversation, under the Seal of some College in Cambridg or Oxford, where before he remain'd; or of three or four grave Ministers, together with the Subscription and Testimony of other credible Persons, who have known his Life and Behaviour by the space of three Years next before.*

The C O N C L U S I O N.

HAVING thus pass'd through the several Heads mention'd in his Majesty's Commission, and with the same Design, viz. for the advancing the Honour and Service of Almighty God, for the Good and Quiet of the Church, and for the better government of it; we do not doubt but the Proposals we have made, if attended to by the Convocation, will have such an Issue: And we hope we shall not be censur'd for invading the Priest's Office in what we have done. A Man needs not the indelible Character to do the Office of a Sexton, sweep the Dust and Filth out of the Church, and lash *Tobit's Dog* out of the Sanctuary; and that is what we have design'd. And if in so doing we have chanc'd here and there to give some late Authors a lick or two, they are only such as have officiously sheltred him under their Legs: For tho we will allow him to be as good a Moral Cur as his late zealous Apologist can desire, and to have learn'd the Fifth Commandment (*for, saith he (a) he was faithful, and loved his Master*) yet we would not have the Fanaticks think, he is a Member of our Church, or that our Congregations are so thin, even on a Week-day (when, says he, he only appears there) that we should need his Company to increase them. We have, in our own Apprehensions, consulted the Honour and Service of Almighty God, since what we desire tends to the more pure and orderly celebrating of his Worship, to the removal of those Abuses which are as provoking to him, as they are displeasing to us; and may incline him who hath hitherto, by many Miracles of Mercy and Power, defended and preserv'd us, to give us yet more signal Testimonies of his Favour and Bounty. And that we have aim'd at the Good and Quiet of the Church is likewise evident, since what we propose will render her Offices less liable to the Exceptions of our Adversaries, and more profitable to us, will increase her Purity and Splendor, will add to the number of her pious and sober Members, will make her Government more conformable to the Primitive Pattern, and establish it on more lasting and solid Foundations, and free her Children from many of the pressing Grievances they groan under. And therefore we hope that so favourable an Opportunity which his Majesty presents the Convocation with, will not be neglected: A Prince, who by his great Virtues is the Glory of our Church, as well as the *Head* and Defender of it, and whose excellent Wisdom and Judgment should be *alone* a sufficient Argument to weigh with us, tho there were no other, as there are many more to induce us to make our Reformation more perfect and compleat.

To sum up all: If his Majesty's Desires, and ours, be now comply'd with, the Church of *England* may stand and flourish as the Envy and Glory of all the Reformed Churches, impregnable to the feeble Attacks of her Enemies, and be adorn'd with a very great Purity and Brightness. But if they be scorn'd and deny'd, we may justly expect to fall under an indelible Infamy and Reproach, to have our Strength and Members lessen'd and abated, to be crush'd by the Artifices and Designs of our strong and numerous Adversaries, and to have *our Church*, and all the *Abuses* which remain in her, taken away together, by some Revolution that we look not for.

(a) Remarks on the two Letters to the Convocation, p. 12.

*A LETTER from a Gentleman in the
Country to his Representative in Parliament, shew-
ing the Expedience of taking away 25 Car. 2. cap. 2.
as to making the receiving the Sacrament a Qualifica-
tion for an Office.*

S I R,

NOTHING certainly can be more offensive to God Almighty than to abuse his own Institutions, which none do more than they who make use of them for other Purposes than they were in their original Institution design'd.

I desire you therefore seriously to consider with me these following things; and by that time you have well weigh'd them, I hope you will think your Letter answer'd.

The first thing I observe to you is, The Nature and End of the Sacrament of the Lord's Supper, as it is now, and ever hath been own'd by the Church of *England* since the Reformation. And as to this, I shall not give it you in my own words, but the words of the *Articles*, the *Homilies*, and some *Divines* of the Church of *England*.

Of the *Articles*. (a) 'Sacraments ordain'd of Christ, be not only Badges or Tokens of Christian mens Profession; but rather they be certain sure Witnesses, and effectual Signs of Grace, and God's good Will towards us, by the which he doth work invisibly in us, and doth not only quicken, but also strengthen and confirm our Faith in him. *Declares the Sacraments to be but two; then adds, That the Sacraments were not ordain'd of Christ to be gaz'd upon, or to be carry'd about, but that we should duly use them. And in such only as worthily receive the same, they have a wholesom Effect or Operation; but they that receive them unworthily, purchase to themselves Damnation, as St. Paul saith.*

Of the *Homilies*. (b) 'Now with like, or rather more brevity, you shall hear how many Sacraments there be, that were instituted by our Saviour Christ, and are to be continued, and receiv'd of every Christian in due time and order, and for such purpose as our Saviour Christ willed them to be receiv'd. And as for the number of them, if they should be consider'd according to the exact signification of a Sacrament, namely, for the visible signs, *expressly commanded in the New Testament*, whereunto is annexed the Promise of free forgiveness of our Sin, and of our Holiness and joining in Christ; there be but two, namely, Baptism, and the Supper of the Lord. *For this is quoted St. Augustin.*

Of *Divines*. (c) 'So much I told you at the beginning; That Sacraments were outward Rites and Solemnities, to express our Consent to the new Covenant; and whereby we signify our settled purpose, and engage our Faith to perform the Duties of Christianity, as ever we expect that Christ Jesus should be a Saviour to us. *And particularly applys it to the Lord's Supper.*

(d) 'This Mystery was instituted as a Federal and Covenant-Rite to be us'd under the Gospel, to engage all such as use it to the strict observation of that Religion, which is establish'd by the Gospel.

I might add Dr. *Taylor*, *Hammond*, and indeed all the devout Men of the Church of *England* that have writ upon this Sacred Rite, who all agree in the same thing: But for brevity sake I omit them.

(v) 39 Articles of Religion, as approv'd and allow'd by the Assent and Consent of Q. Elizabeth, and confirm'd by the Convocation 1571. Art. 25.

(b) Book of Homilies, f. 213.

(c) Patrick's Christian Sacrifice, p. 32.

(d) Pelling's Discourse of the Sacrament of the Lord's Supper, p. 78.

And shall next consider what the Persons are, which the Church of *England* reckons duly qualify'd for the Lord's Supper.

(e) 'Examine your Lives and Conversations by the Rule of God's Commandments, and whereinfoever ye shall perceive your selves to have offended, either by Will, Word or Deed, there to bewail your own sinfulness, and to confess your selves to Almighty God, with full promise of amendment of Life.

(f) 'Consider how *St. Paul* exhorteth all Persons diligently to try and examine themselves, before they presume to eat of that Bread, and drink of that Cup: For as the Benefit is great, if with a true penitent Heart and lively Faith we receive that Holy Sacrament (for then we spiritually eat the Flesh of Christ, and drink his Blood; then we dwell in Christ, and Christ in us; we are one with Christ, and Christ with us) so is the danger great if we receive the same unworthily. For then we are guilty of the Body and Blood of Christ our Saviour; we eat and drink our own Damnation, not considering the Lord's Body; we kindle God's Wrath against us; we provoke him to plague us with divers Diseases and sundry kinds of Death.

(g) 'Let such as intend to be Communicants, take care first to be sincere and uniform Penitents, and resolve stedfastly to keep those Vows, which they are understood to make so solemnly before God's Table. It is a fearful thing to lay ones hand upon the Holy Evangelists, and then to be perjur'd: But the Wickedness is far greater, to lay ones hand, as it were, upon Christ's Body, and then to be a Traytor; and to take *Judas* his Morsel into ones mouth with the Devil in his heart, is the ready way to be, as he was, a Son of Perdition.

And now let the (h) Act of Parliament of 25 *Car. cap. 2.* be consider'd with what is before laid down; and by that time, I hope, you will see sufficient reason to take that Act away, unless you will fix the greatest blemish upon one of the best Churches in the World.

By this Act of Parliament, all Persons that have any Employment (except as in the Act is excepted) Civil or Military, are bound to take the Oaths of Allegiance and Supremacy, to receive the Sacrament according to the usage of the Church of *England*, and to subscribe the Declaration against *Transubstantiation*; and if they do it not within the time, and at the places therein and thereby prescrib'd for that purpose, the Employment or Office is thereby adjudg'd void.

I confess this Act is intituled, *An Act for preventing Danger which may happen from Popish Recusants*; and begins thus, 'For preventing Dangers which may happen from Popish Recusants, and quieting the Minds of his Majesty's good Subjects, be it Enacted, &c.

But if you, Sir, please to recollect your self, and call to mind that this Act of Parliament was made in that very Year that Alderman *Love* complain'd in the House of Commons, of the Invasion that *Charles* the Second had made upon the Law in issuing of a Declaration for *Liberty of Conscience*, against express Acts of Parliament (for which that Gentleman hath been deservedly had in very great esteem by *Englishmen* of all Persuasions) you may give a shrewd guess out of whose Quiver this Arrow flew; for altho the word *Popish Recusant* be made use of, yet it is to me very plain, that the *Protestant Recusant* was intended, and that out of Revenge, because he was then so just to the Liberty and Property of the Subject in general, that he would rather abridg himself of his liberty of serving God according to his own private Conscience, than contribute any thing to the placing a *Dispensing* Power in the Crown, of which our Laws are profoundly ignorant.

Then was this Law set on foot and carry'd, by which all the dissenting Protestants are kept out of all Places of publick Employment, how justly will by and by appear—

But before I come to that, pray Sir, consider that the Sacrament of the Lord's Supper is a most Sacred Ordinance, instituted by Christ for Religious, and not to serve Secular Purposes; and therefore to make it a Test to qualify a Man for Civil Employment, is really to profane the Ordinance, and an express breach of a positive Law, *Thou shalt not take the Name of the Lord thy God in vain.*

(e) Book of Common-Prayer, Exhortation before Time of Administring the Lord's Supper.
the Sacrament.

(g) Pelling's Discourse, p. 101, 102.

(f) Book of Common-Prayer, Exhortation at the

(h) 25 *Car. 2. ca. 2.* Bibli. Stat. fol. 1458.

A Man may perhaps be very fit to serve the Government as a Colonel, Captain, Lieutenant, &c. that is by no means fit to receive the Sacrament of the Lord's Supper: must the Government now want his Service, or must he damn his Soul to serve the Government? This is a hard Case, yet so it is as the Law now stands.

Again, a Man perhaps that is a Dissenter is a much better Soldier, &c. and more capable of serving the Government than another Man, but he can't receive the Sacrament according to the usage of the Church of *England*: the Government now must take up with one less able to serve it, or he must play the downright Hypocrite to capacitate himself to do good as a *Man*; in plain *English*, he must become a Disciple of the Devils, to evidence to Men that he is a Protestant: and where is the sense of this?

Moreover, if this Law were design'd really against the Papists, it hath not its End upon them; for as I am credibly inform'd, and doubt not to make appear, the Pope hath given the *English* Papists a Dispensation to do all that this Law requires: so that the conscientious dissenting Protestants (who really fear God, and honour the King and Queen) are the only Persons barr'd by this Act from a share in the Government. And I am sure of this, that he who is at this day for weakning the Protestant Interest, is more than half a Papist by his acting, whatever his external Profession may be; and I know nothing can weaken it more, than keeping up this *Sacramental Test*.

It is desir'd of all good Men, that all Protestants were of a mind in every thing: but seeing, tho that be not, yet we all are agreed in the Fundamentals of Religion; methinks the Church of *England*, like a tender Mother, should pity the Dissenters, and seeing they are not strong enough to come up to Her, she should for the preservation of the Substance of Religion amongst us, yield to their Weakness, and remove all things out of their way that hinder them from uniting with Her against the common Enemy, the *Papists* I mean.

The taking away this Act of Parliament would, I doubt not, so cement us, that all the Policy of *Rome* added to the Prowess of *France*, would never be able to shake us, much less to overthrow us.

And now, Sir, I should think this were reason enough for the Parliament to take away this Law, and put the matter out of dispute: but if they think it not fit, truly to be free with you, I am of Opinion that his Majesty and the Government may have the use of the Dissenting Protestants without it, by virtue of a Proviso in the Act it self; which Proviso is this, 'Provided also that any Person, who by his or her neglect or refusal, according to this Act, shall lose or forfeit any Office, may be capable by a new Grant of the said Office, or of any other, and to have and to hold the same again, such Person taking the said Oaths, and doing all other things requir'd by this Act, so as such Office be not granted to, and actually enjoy'd by some other Person at the time of the regranting thereof.'

Now I observe;

1. That the Exercise of any Office within this Law is good, until the Time prefix'd for the taking the Oaths and Sacrament be elapsed.
2. That notwithstanding an actual Loss or Forfeiture, the Person losing or forfeiting his Employment, is capable of a Re-grant. And,
3. That it is but renewing the Commissions the oftner, or in case of Forfeiture making a Re-grant; for the Act doth no where require your taking the Oaths and receiving the Sacrament before your Grant or Commission, but only saith it shall be void in case you do not do it in the time prescrib'd, and makes the same Person capable of a Re-grant, even before he hath taken the Oaths or receiv'd the Sacrament.

Thus, Sir, I have freely given you my Mind; I shall conclude all with my hearty Prayer, that God Almighty would give *England* at this day to know the things that belong to her Peace, before they be hid from her Eyes.

I am, Sir, your most humble Servant.

The True Friends to Corporations Vindicated.

Printed in
the Year
1690.

*In Answer to a Letter concerning the Disabling Clauses
lately offer'd to the House of Commons for Regulating
Corporations.*

I Cannot discommend the Wisdom of a certain *Club*, in their late *Address* only by word of mouth, that the Form might not be canvass'd, or afterwards brought in Judgment against them if the *Abdicated King* should return, or they should serve *This* as some of them did the *Last*, to whom in a true sense they gave only words.

Quære,
Whether
not at the
D—?
Verba da-
re often
us'd for
coz'ning.

Would they still have maintain'd the Character of *Politicians*, they should have chosen rather to wound others in the dark, than, by printing, bring Themselves and their Censures to a publick Scrutiny; and should have kept to their artful Whispers, and nameless written Letters to *Corporations*, representing some of the Members of the last Parliament as Opposers of Monarchy, for their steddiness in this King's Service; as pulling down the Church of *England*, because of their Zeal to settle it upon a lasting Foundation; and being for ruining Corporations, by their Endeavours to restore their Privileges, and weed them from those who had arbitrarily invaded, or treacherously given them up.

But since such Men have enlightned the World with a Print, shewing the Sense of the Party about this Matter, they at least warrant others to take a liberty of publishing as much free Truth, as they do malicious Falshood.

To observe how bare-fac'd they are in justifying all those Enormities which occasion'd his present Majesty's Accession to the Throne, not only shews, That they strike at the very Root of his Government, but argues their being countenanced and upheld by some who make use of the King's Name and Authority against himself. Nor tho the (a) Letter intimates as if his Majesty was thought fit to express himself on their side; can I believe this Writer more to design the Justification and Support of his Majesty's Government, than did the Author of *The Magistracy and Government vindicated*.

To give my Thoughts of the Letter in short, it is not only a scurrilous Invective against those worthy Members of the last Parliament, who would have set a deserved Mark of dislike upon *Surrenderers*, but a scandalous Libel upon the whole Church of England Party, which, he says, generally consented to *Surrenders*. This Assertion must proceed either from Ill-will to the Church, or some private Interest which has the preference with him. Nor could the Enemies to the Church desire a greater Advantage against it, than that they might have ground to charge its whole Party, as this Gentleman does, with acting or consenting to the Ruin of the State.

P. 20.

Hoc Ithacus velit, & magno mercentur Achivi.

His Colours are so grossly daub'd on, that any Man may discern them not to be natural: His History of *Surrenders and Regulations* is false; his Inferences weak, and yet discover more Malice than Folly.

(a) P. 5. Some say, His Majesty was pleas'd to express his dislike, &c. Quære, Whether both were not written by the same Hand?

Letter, p. 6. It is not to be doubted but he himself has much to answer for the Criminal Transactions of those Times, when that evil Humour which finds an Orator, as Diseases had heretofore, began to rage.

Consequences of Arbitrary Power. P. 6. The Lord *Shaftsbury*, and others who would have check'd the Contagion, he, according to the *old Cant*, renders guilty of a *Design* against the Crown: the turning the *Popish Plot* upon Protestants, the Murders of the most noble Assertors of the Religion and Laws of their Country, were with him but the clearing up of very unquiet and dangerous Times: the imposing *Sheriffs* upon the City of *London*, never chosen by it, whereby no Place was left free from *Juries* devoted to the Will of the Court, was a prudent frustrating those Designs that *Earl* was embark'd in; and the Surrenders of *Charters*, and *Addresses* in abhorrence of true *English Parliaments*, were but the Results of a Warmth and Spirit, which began to appear even in the more indifferent sort of Men, in favour of the Monarchy and Government; Expressions of the good Will of a People, grateful for a mighty Deliverance, and Declarations of their Duty and Affection to the Government.

Loyalty against Law. Thus they who were Loyal against Law, might express their Duty and Affection to the Government in destroying it. The Grants of petty Markets and Fairs for Hobby-horses and Ginger-bread, or a Mace or Rattle for a Mayor, not to say a Fool's Coat, in lieu of the Peoples Rights of Elections to Parliament, without the Influence or false Returns of Magistrates impos'd upon them, were a Reciprocation on the King's side, suitable to their transports of Affection to him, and those Expressions of good Will, to which in that time they were strangely inclin'd, or insensibly acted by the Stars without any concurrence of their Wills.

They who were not animated with this Spirit of Loyalty, were cast to the Dogs as dead in Law: and thus the Government was gratify'd, by an opportunity to countenance Friends; that is, to advance them who would sell their Country for a little Place and Countenance; but in truth to make them such Slaves as they desir'd, or deserv'd to be, good Loyal French Peasants, with Wooden Shoos and Canvase Breeches, strutting and priding themselves in the grandeur of their Monarch.

P. 6. They had their Account in the Revenues of the Towns which they shar'd among them, or Salaries for Secret Service, while the Towns were cajol'd with Feathers in their Caps, and some insignificant precarious Privileges.

P. 6, 7. The City of *London's* Petition for the sitting of a Parliament to enquire into the Popish Plot, and the Rates which they had set upon Goods and Stalls in their Markets, far short of what the meritorious *Cradock* afterwards exacted under colour of Authority from the Court, were Crimes of Forfeiture assign'd, the Fact of which was not denied; and whatever was the Law, it was but requisite they should be adjudg'd

P. 6. such Crimes, when the Case of *London* had put the Government to a stand, and there was a publick and avow'd stop put to the course of Justice there.

Language of the Party. P. 11. This was the Language of the Party formerly, and the present Effect of their Impunity: but methinks it is too soon to open so far again already, till they see the desir'd Effect of the Power that Magistrates have in the Conduct of Elections, by Notice, Time, Place, Countenance, and the like; and to return whom they please whoever is chosen.

Surrenders of Charters. P. 5. If this was the Consequence of Surrenders, as he would have it be; if others were let in upon turning Surrenderers out, then surely none of this Rhetorician's Arts can make them be thought unjust, uncharitable, and inhumane, who would have disabled Men from having benefit by their own Crimes, so destructive to the Constitution of the Government.

P. 11. If the Influence and Power of Magistrates be so great as he tells us, and the course of determining disputed Elections above, such as some think he lays to the Charge of the wrong Party; then since they who had been displac'd by virtue of the Power which themselves gave, were restor'd by the late King, it would not be thought strange, if many who had been dipt in Surrenders were return'd, or sat as return'd of the last Parliament; and if there were any such, they might well be tender of punishing that Crime in which themselves were involv'd: which might give a probable account of the opposition which the disabling, and other Penal Clauses met with; and yet they had pass'd, had not the well-meaning Party in the House been trickt by the Delay obtain'd at the motion of one, thought to row one way and look another; which gave time to bring many Members out of the Country who had wholly neglected the Trust which the People repos'd in them by their Choice, but would be sure to take care of themselves: and yet this unexpected addition to their Numbers

bers had not cast the Ballance, but that too great confidence in the reasonableness of the thing made others careless.

This *Writer* makes a mighty matter of their endeavour to pass the Clauses by way of *Rider*, which he terms a well-temper'd *Craft*; whereas it is not only Parliamentary, but common, where Men fear to lose a good Bill by clogging it, to bring in a new Clause in that manner, which may be rejected without loss of the Bill. P. 4.

Before *Sir Formal* proceeds to dissect the Clauses, and shew the admirable Justice, Charity and Humanity, he should have added Veracity of them; he must beg the favour to state in a few words, the matter of surrenders of Charters, the Foundation whereupon this *Fabrick* was to be erected: his few words are about three Pages, which answer his three Orders of Persons concern'd in Surrenders. P. 5.

Of his first Order are divers of the Nobility, and most of the considerable Gentry, who were pleas'd to joyn themselves with Corporations in these Matters, and were their Mediators above in procuring what Advantages they desir'd. P. 8. P. 6. Persons concern'd in the Surrender of Charters.

Admirable Condescension, Charity and Humanity! But where was the Reciprocity on the Peoples side for all this? I hope they did not curse their Courtesy.

This interposition of Great Men was stark love and kindness to the poor People; they had no design to ingratiate themselves at Court by those Services upon which they valu'd themselves there, or to get into Corporations, and wheedle the common People out of their most desirable Interest: but if they did, the Present of a Charter was but a mean Acknowledgment of the Honour of having a Great Man a Steward or Recorder; besides, they procur'd them Markets and Fairs, new Holy-days in exchange, and pleas'd them and their Wives well enough: which puts me in mind of the *Satyrists*'s Remark upon the passive Temper of the People of Rome. P. 7. P. 6.

*Qui dabat olim imperium, fasces, legiones, omnia, nunc se
Continet, atque duas tantum res anxius optat
Panem, & Circenses.* —

Juv.

' They who their Laws, and Magistracy chose,
' Quietly give up all for Bread, and Showes.

His second Order is of them who live in Corporations, from whom he would not have you expect the virtue and courage of Cato's, to withstand the attacks of Powers at the peril of their own Quiet and Fortunes; or that they should value a solemn Oath above a Complement. But, poor Wretches! they were tempted with promises, threats, and present benefit to their Town, and by men of credit in the Country, as well as power at Court, when they thought it a vain thing to contend. The Temptation was so great, the Perjury was unavoidable; besides, had they stay'd for a tedious course of Law, they had disoblig'd a Great Neighbor, whose Patent for a new Dignity or Office could not pass till the Charter came up. P. 7.

But while he is excusing most of the substantial, reputable, and conformable People in the Cities and Towns all over England, as he calls them who yielded to the Tempters (tho that meanness takes off all but conformable from their Character) he leaves his many of the Nobility, and most of the considerable Gentry in England, to answer for the Guilt of deluding those poor Men. A very fine Encomium, this of our English Nobility and Gentry, and others, who chose to err rather in Compliance with, than in Opposition to their Superiors! P. 5, 7.

Oh! the admirable Virtue of Passive-Obedience, to gloss over the most guilty Compliances and Actions, towards subverting our Religion, Laws, and Liberties.

3. His third and Superlative Degree is of such, who projected the modelling of Corporations, to influence Elections of Members to Parliament; and sent Itinerant Regulators all over England, to tamper with the Inhabitants, and either to find out Men of themselves dispos'd, or who might be persuaded to serve turns; and accordingly to place and displace them under the Power of the New Charters. P. 8.

This is very unfairly put; for by this he would insinuate, as if that part of the Nobility and Gentry, which himself loads with threatening Corporations into Compliances, were not at all concern'd in projecting the modelling Corporations, but only those who came upon the Stage some years after they were modell'd. But the Projectors of the modelling, and Procurers of the new Charters, were certainly the same; and if they sent the Itinerant Regulators, which his Copulative and shews, then P. 7. The Projectors for new modelling the Corporation.

(b) then, according to himself, the whole Church of England Party were concern'd in the sending *Itinerant Regulators*, as well as consenting to *Surrenders*. However, it seems it was no Fault for Persons of Quality, to go up and down themselves to regulate Corporations, and make their Grooms and Footmen free of them, to out-vote the Inhabitants; but to send poor *Itinerant Regulators*, was unpardonable, when the Work deserv'd, and stood in need of greater Quality to promote it.

P. 8.
Regula-
tors.

To these *Projectors*, he adds the *Regulators themselves*, and such as complied with them, and were therefore put into Offices in Corporations, and to shew their Inclinations, acted without being qualify'd by Law. These, he might well say, are but an handful compar'd with the multitude of others, which he would excuse; and this is a plain confession which Party had the greatest share in those things which justify the late Revolution. But that Handful are brought in by head and shoulders, among Persons concern'd in the Surrenders. Yet it must be own'd, that he is so modest to charge only the *Itinerant Regulators*, and those who came in upon Regulations without qualifying themselves by Law; being aware that all others would have turn'd the Charge upon his beloved Friends the *Surrenderers*, who not only gave them the opportunity, but by directions from above, upon the turning out some of their Fellow-members, proceeded to the choice of such as were recommended, being themselves quiet and good Men, and chusing to err rather in compliance with, than in opposition to their Superiors.

P. 7.

P. 8.

But I cannot tell by what Figure but an Irony, he makes his first Order of Persons concern'd in Surrenders, to have been *Benefactors to their Towns*; unless it be a Benefit to have *Gentlemen and Clergy-men* to come in to vote and out-vote them, to give credit and a blessing to the Business.

Methods
us'd in the
surrender of
Charters.

And I fear he must use the same Figure, to make all the second Order to have been (c) well-meaning and honest Men. What, did none of them force open Chests to get the Charters? Did none of them tempt the very Temptation, and solicit *Quo Warranto's*, and become Informers and Prosecutors against their Cities or Towns? Did none of them use Threats to their Fellow-members? Did a few never pretend to act in the name of the Majority? Surely this vain Writer cannot think that his Flood of Rhetorick should drown mens Senses. Did nothing but the late Flood of *Regulators* tend to the subversion of the *Establish'd Laws*? Was there no tendency to their Subversion by their Actions, who gave the *Regulators* an Handle? Did they all judg, and do as they ought, or else were but innocently mistaken, who were accessary to so manifest a Subversion, not only of the *Establish'd Laws*, but of the very Foundation of their Establishment? Did they deserve Praises, rather than Reproach or Punishment? This Writer indeed tells us, he must needs say, *They deserve Praises, rather than Reproach or Punishment*; to which perhaps he may be constrain'd by the consideration of his own Merit, in those things which have been the Nation's Burden and Reproach.

P. 8.

Ibid.

Oh! but they chiefly, if not only stem'd the Tide of Regulations, bore the brunt, stood out, and were displac'd with all possible Discountenance; which shews, as soon as they saw the Evil, they avoided it, and bore the Inconveniences with Resolution, while others that shall be nameless, yielded, and were prefer'd to Magistracy.

P. 7, 8.

Alas, good People! their Eyes were never open'd, till the Power they gave the Court was turn'd against them; might they have had the Regulations still, and have acted under the old Disguise, no rigid Cato among them should have put the Government to a stand. But did this Writer's nameless Men come into Magistracy in Corporations till the *Surrenderers* had made way for them, not only by the Power which they generously gave the Court to turn themselves out, but by the actual Choice of the *Surrenderers* still remaining in? When the late Court was to strike out one half of this Gentleman's Church-party in a Corporation, leaving the rest to chuse others in; Was it more than Cross or Pile, which half would be most complying in the Choice? they at least who did comply, did not bear the Brunt; and they who were turn'd out, being as likely to have erred, rather in compliance with, than opposition to their Superiors. We may well say, it was not so much their stiffness which occasion'd their removal, as the necessity the Managers were under to change hands, and to trim the Ship of State after it had been over-set by this *Tantivy* Crew.

P. 7.

(b) Vid. The Improvement of this by Mr. F. at my Lord Russel's Trial.

(c) Ib. Vid. This Contest, P. 12.

And it may deserve a Question, Which are most to be blam'd, they who came into the Magistracy, when they had hopes of doing good by keeping ill Men out; or they, who while they were in were guilty of such Compliances, that it might reasonably be believ'd they would stop at nothing? And whether it is more honourable to be Favorites of the Papists now, than it was when the late King was in possession? A Question.

To come to his accurate dissection of the Clauses.

The first Clause, 'For the sake of publick Justice, and securing the Government for the future, That such open Attempts upon the Constitution, and so notorious violations of Oaths and Trusts should not go unpunish'd, lest ill Men might be encourag'd to the like Guilt, in hopes to come off with Impunity, tho they should fail of Success; Enacts, That every Mayor, Recorder, Alderman, Sheriff, Common-Council Man, Town-Clerk, Magistrate, or Officer, who did take upon him to consent to, or join in any such Surrender, or Instrument purporting such Surrender, or did sollicite, procure, prosecute, or did pay or contribute to the Charge of prosecuting any *Scire Facias*, *Quo Warranto*, or Information in the nature of *Quo Warranto*, by this Act declared void; shall be, and is declar'd, adjudg'd, and enacted to be for the space of seven Years incapable, and disabled to all Intents and Purposes, to bear or execute any Office or Employment, or Place of Trust, as a Member of such *respective City*, &c. whereof or wherein he was a Member at, or before that time. P. 9.

This Author in his Anatomical Lecture upon this Clause, prosecutes three Heads:

1. The Design. 2. The Prudence. 3. The Justice of the Clause.

He takes a great deal of pains to prove, That the Design of the disabling Clause was only to disable; and that this Design may be thought dangerous, you must take it with this *Hypothesis*, That the generality of the Eminent Inhabitants in Corporations, and neighbouring Gentlemen, and to use a known Denomination, the whole Church-of-England Party, consented to Surrenders. And yet, were this as true as it is false, it need not be granted, that upon turning them out, the whole Business of Elections in Corporations must devolve upon those who have continually oppos'd the former; and to whom he gives the favourable Character of being ever uneasy under, and perpetually tampering to alter the Establish'd Laws and Government both in Church and State. P. 10.
Church-of-England
Party con-
sented to
Corporati-
ons Sur-
renders.

Tho he gives the Denomination of the [whole Party] to them whom he takes to have been the greatest part; yet he cannot deny but there were others in Cities and Towns, whose Consent was never taken: and if his Consequence were true, the Freemen and Inhabitants in Corporations would be wholly defeated of their Business in Elections, by the surrender of the governing Part; and then certainly no Man can question the justice of this Clause in disabling them to betray the Liberties of the Subjects, who had so manifestly subverted the very Constitution. P. 11.

But that his *Hypothesis* is false, is well known to any Man who was conversant in the Countries, while perhaps this Gentleman was projecting or arguing for the Project above. He cannot but know, that if the whole Church-of-England Party had been generally so quiet and good complying Men, as he would have it believ'd that they were, they being the most, if not the only Men who were in the Magistracy in Corporations, the Court would not have been put to the prosecuting *Quo Warranto's*, or pressing Surrenders. But because the Generality had their Eyes open by the Popish Plot, and saw plainly where it center'd; therefore the Managers for Popery having given the hottest Men the Spoil of all others, they in return in most Places, either got the Seals of Corporations by Force or Artifice, or as they had been entrusted with the Keys to other purposes. And thus they pretended to represent the whole governing Part in their Cities or Towns; and if the Majority did consent in any one Place, perhaps no one Instance can be shewn where they were unanimous, or where at least there was not an equal Number of other Members conformable to the Church, and as considerable in every respect, who should recommend them to the Favour of an equal Government. P. 7.

But the Folly of this Rhetorician obliges me to pursue him through his various Windings; and it is pleasant to observe his Three Considerations to prove that disabling, and nothing more was design'd by the disabling Clause, or rather that the Design was to turn out the Church-of-England Party.

1. Because there is no Harmony nor Proportion between the Preamble and the enacting-Part. Where he would have you guess at his meaning, That Disability is not a Punishment equal to such a Crime, as the Preamble would argue. If it be not, what becomes P. 11.

P. 5. becomes of his ironical Fleece at the admirable Justice, Charity and Humanity of it?
 P. 10. But, if to be render'd incapable of being chosen to serve in Parliament, or of being so much as concern'd in the management of Parliamentary Elections and Returns, would take from many Men the Opportunity of enriching and advancing themselves by betraying their Country or Corporations; then, surely, to such Men at least, it is a Punishment suitable to the Preamble. Yet, were the enacting Part short of the Preamble, would this be an Evidence of an evil Intent against the Church?

P. 12. 2. But then he says, what the Preamble pretends is in no sort provided by the Law, that is, Reformation of the Abuse, and preventing the like for the future; for, says he, It contains neither a Declaration of the Law, nor so much as a Prohibition.

The Fourbery or Chicanery of this, to use a Great Man's Word, would be enough to put one out of temper. The vulgar Reader, who is to be cheated, he thought had never heard that the Act which passed the House of Commons, condemns Surrenders as illegal; and surely there is no need of prohibiting here what was before declar'd Illegal, and is here punish'd as such; and not only the Punishment might deter from the like Actions for the future, but the turning out the Men that were guilty, were almost enough of it self to prevent the like again; it being hardly possible to get such another Set of Men so easy to be tempted or over-perswaded to forget the Oaths which they took when they were made Members, To preserve the Rights of their Corporations to their Powers.

P. 7. 3. His third Argument to prove, That by the Clause for disabling Surrenderers, no more was meant than disabling such, is very comical; for, says he, there is no Mark set upon the great Criminals, the Regulators; that is to say, a Clause against one Crime reaches not to another: which tempts me to return a true Verse for his (a) faulty one upon the Preamble.

Roscius hæc profert prægrandi digna coturno.

This Roscius says, worthy his Tragick Meen.

P. 12. But with what face can he blame this Clause, because it sets no Mark upon such as by Force and Fraud extorted Charters and Surrenders from Corporations, without the free Consent of the Body? when if he writ fairly, there never were any such Men: for none of them are to be found among his three Orders of Persons concern'd in Surrenders; and if they are there, they deserv'd Praises rather than Reproach or Punishment, and were either Benefactors, or well-meaning honest Men. Alas! they did it in their sleep.

And however, tho these Benefactors and well-meaning Men have no particular Mark set on them, they are deservedly disabled with others; and surely 'tis no Objection, That all Persons, tho differently concern'd, are equally punish'd when the Punishment is so mitigated, that the least Guilty have reason to be thankful, and acknowledg the Mercy of the Law.

P. 13. His Objection against the Prudence of this Clause, deserves not so long a Consideration; for whereas he says, It revives a troublesome and scandalous Faction of Consenters and Non-Consenters, it certainly would remove all danger of the Faction, by justly laying aside the scandalous Consenters. Nor must such Men think to have their Faults buried, till they have the modesty to withdraw from the Publick.

When he comes to consider the Justice of it, he would tie the Legislative Power to have respect to Equity, and the course of Law; where, if by Equity he means such as governs the Courts at Westminster, those Rules, and the course of Law might be pass'd by, without swallowing all the Absurdities and Iniquities in Nature. But this Gentleman cannot write without an Hyperbole.

The Clause vindicated from Absurdities.

1. His first Instance of Absurdities and Iniquity in this Clause, is, That Men are condemn'd without Trial. If this be condemnation, then at least the Disability is such a Punishment as condemns one of his Objections against the Preamble. But farther, the Party disabled may act, if he thinks fit; if he do act, he is subject to the Penalty in the following Clause, which Penalty cannot be recover'd without trial. But he artfully considers this Clause by it self: He would insinuate, That because of this Disability, all that such Officers did after, were invalid; but the Clause makes

(a) His Verse is, Quid proferet dignum tanto promissor hiatus: where pro is made short, that should be long. The true Verse is, Quid dignum tanto feret hic promissor hiatus. Hor.

no such provision, and he well knows that no prior Law does; but he seems to be one who not only would have *our King* to be barely *King in Fact*, but who denies the Authority of those Acts of Parliament to which he has given the Royal Assent.

2. He adds, That the Punishment is inflicted for doing what was then and is still lawful, that is the *bare consenting to a Surrender*; this he makes to have been a *Judgment by way of Vote in a matter of common Interest*. According to his Reflection upon the *Church-of-England Party*, it was their *common Interest* that Charters should be surrendered, and new ones taken, with the Names of all the Officers inserted, but to be turn'd out whenever the *Court* thought fit; that if that *Set* would not comply with its Popish and Arbitrary Designs, they might be garbled till there were found enough *good, quiet, conformable Men*.

Consenting to the surrenders of Charters a fault.

This Gentleman being, it seems, privy to the Affair of *Surrenders*, affirms, That consenting was *innocent in Multitudes*, and of the *best Account*; but the *House of Commons*, without any Division that I have heard of upon that Point, affirm'd the contrary, when they held it to be *illegal* in all, which makes his Affirmation pass for nothing. Nor can the Ignorance of the Law excuse *well-meaning Men*; and it must be admitted, that for the sake of Publick Justice, even such Men ought to be convicted of voluntary Perjury, where they forswear themselves through Inadvertency, or ill Advice. But I challenge him to shew any one Instance since the time to which the Bill limits it, in which if a *Surrender* had force in Law (which it might have, and yet be a very ill Act, nay perhaps the worse for that) the Rights of others, besides the *Surrenderers*, would not have been injured.

P. 16.

His third Objection against the Justice of the *Clause*, is but the second; for, unless *Surrenders* were lawful before, it cannot be thought that this Clause punishes them *ex post facto*.

The second Clause which he objects against, is that which inflicts five hundred pounds Penalty to be recover'd only by a Member of the Corporation, against such as act after the Disability; and works a total Disability upon Verdict found, or Judgment given by Confession, with a Provision, That a former Action, depending for three Terms, shall be no Plea, nor shall a *Non-Suit* of one Plaintiff be a bar to another.

Second Clause. About the Fine of 500 l.

The true ground of his Quarrel against this is, The prudence to avoid its being defeated by any Pardon, or by leaving Criminals a Power to clear one another by such Sham-Actions as *Godwin's* against Sir *Edward Hales*: nor can any one justly blame the farther Care, that this Act may not occasion trouble to innocent Persons, by encouraging Strangers to what has pass'd in Corporations to prosecute at a venture.

Some will be apt to say, that his *open and gross Objections* proceeded rather from some cloudiness in a Brain mov'd with a preternatural Heat, than from any just Ground: He still repeats the burden of his Ravings, that it was a Design to exclude the *Church-of-England Party* out of Parliament for seven Years.

It was indeed level'd against them, who usurp or engross to themselves the Name of the *Church-of-England Party*, and would make a *Faction* of the *National Church*, from which they would exclude most of the *Conformable Laity*. None were truer to the *Church's* Interest, than they who desir'd this *Clause*, as a Means to prevent those Disturbances which are contriv'd by Men who use the Name of the *Church* to countenance the worst of Crimes, and aim at nothing more than advancing themselves: and if in some places *well-meaning Men* were drawn in, they themselves would be glad, that by their sitting still for some time, the Corporations throughout *England* might flourish, and the Peoples Interest in the *Legislature* be secur'd, by the removal of so many canker'd Members, as having such an Influence over Elections, or Power in Returns, as this Gentleman owns, rob'd the common People of their best Inheritance, and went very far towards suffering *Popery and Slavery* to be establish'd by Law.

Third Clause. The punishing of Persons for Surrenders when against the majority.

These Clauses, which would have been a happy Means of settling this Nation, being rejected, another was offer'd, which would have punish'd them who *surrender'd*, or procur'd *Surrenders* when the majority were against them. This, which was a manifest Crime, their *Advocate*, with his usual Figures, would make to depend upon Chance, and is very elegant about the way of voting, and the danger of speaking

ing first: whereas the Question is not of Surrenders attempted without effect, but of such as were actually made without the Consent of the *majority*; and who but one of this *Author's* Subtilty would plead for these?

But because the Clause does not allow the Instrument of Surrender, or Entries in their Books to be evidence, it being foreseen, that they who will pretend to represent others, will not scruple to set down their Names; therefore he will have it, that they are not allow'd the privilege of a Majority.

P. 21.

Fourth
Clause.

Thus have I expos'd the wretchedness and foulness of his Objections to these Clauses; but one of his Arts is yet behind, which is the concealing another Clause offer'd for disabling only *Mayors, Recorders* and *Town-Clerks*, guilty of this Crime: His Party so well approv'd of those *Surrenders*, by which they were enabled to justify them, that they would not suffer any Mark to be set so much as upon them. And I question whether they will allow of any one of those Grounds which his Majesty has declar'd for his descent hither.

Itinerant
Regula-
tors.

I have no purpose or concern to excuse *Itinerant Regulators*, but with all my heart let them be jumbled in a Bag together with the *Itinerant Electors*, who, that what they call the *Church-of-England Party* might appear considerable, took care to be represented many times over, the same friendly Band chusing Members for several Corporations and Boroughs. But this fallacious Writer has us'd as much Art to conceal the worst sort of *Regulators*, who set the Example to the rest, as (a) some have done to wrest both *Fact* and *Law* for the destruction of those who oppos'd what they call'd the *Church-of-England Party*. He could not but know that the *Itinerant Regulators*, at the latter end of the late King's Reign, were a few inconsiderable Persons, who were but Day-labourers, and did the drudgery for Bread. But the whole *Church-of-England Party*, if he compute right, were *Regulators* in King *Charles* his Time, and would have been so in King *James's* if he would have follow'd their Advice, and have kept *Popery* under a Mask till the Work was finish'd, and assur'd by open-fac'd Arbitrary Power, which these conformable Men were eager to carry on, while they could have the pretence of *Loyalty* to varnish over their Treachery to their Country, and real Treason against the *Kingdom*.

Were there a *Proclamation* in pursuance of his Majesty's Declaration while he was but Prince, setting aside the old *Regulations*, as the late King did the new Ones, I persuade my self, that neither such Crimes nor such Defences would pass unpunish'd.

(a) *Quare, who guilty of this at the Trials of Lord R. Mr. C. &c.*

F I N I S.

A N

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